



Fulton County Board of Commissioners  
**Agenda Item Summary**

# 19-0951

**BOC Meeting Date**  
 11/20/2019

**Requesting Agency**

Real Estate and Asset Management

**Commission Districts Affected**

All Districts

**Requested Action** *(Identify appropriate Action or Motion, purpose, cost, timeframe, etc.)*

Request approval of a Resolution for a License Agreement between Fulton County and the Georgia Department of Human Services, Division of Family & Children Services for use of County Owned Real Property for the purpose of distributing toys and economic assistance from within a Fulton County-Owned Real Property; to authorize the Chairman or County Manager to execute the License Agreement; to authorize the County Attorney to approve the License Agreement as to form and to make any modifications thereof prior to execution. The Term of the License Agreement is from Execution through March 31, 2020.

**Requirement for Board Action** *(Cite specific Board policy, statute or code requirement)*

Pursuant to Fulton County Code of Laws ("FCC") 1-117, the Fulton County Board of Commissioners has exclusive jurisdiction and control over directing and controlling all the property of the county, as they may deem expedient, according to law; making such rules and regulations for the support of the poor of the county; and to exercise such other powers as are granted by law, or are indispensable to their jurisdiction over county matters and county finances. See also, O.C.G.A. 36-1-19.1.

**Is this Item related to a Strategic Priority Area?** *(If yes, note strategic priority area below)*

Yes All People trust government is efficient, effective, and fiscally sound

**Is this a purchasing item?**

No

**Summary & Background**

*(First sentence includes Agency recommendation. Provide an executive summary of the action that gives an overview of the relevant details for the item.)*

**Scope of Work:** The Georgia Department of Human Services, Division of Family & Children Services has requested permission of the Fulton County Board of Commissioners to occupy the County owned real property located at 475 Fairburn Road Atlanta, Georgia for their 2019 toy distribution location for children that are members of families that are economically disadvantage. The subject facility was previously used as the West Fulton Mental Health Facility and is currently vacant pending repurposing by the Department of Real Estate and Asset Management.

**Community Impact:** The approval of this agenda item will not have any impact on the residents of this community and will provide easy access for County residents requiring economic assistance and assistance acquiring toys for their children.

**Department Recommendation:** The Department of Real Estate and Asset Management

Agency Director Approval		County Manager's Approval
<b>Typed Name and Title</b> Joseph N. Davis, Director, Department of Real Estate and Asset Management	<b>Phone</b> 404-612-3772	
<b>Signature</b>	<b>Date</b>	

Revised 03/12/09 (Previous versions are obsolete)

recommends approval of the resolution to enter into a license agreement with the Georgia Department of Human Services, Division of Family & Children Services for the purpose of granting access to the County owned real property located at 475 Fairburn Road Atlanta, Georgia.

**Project Implications:** The Fulton County Board of Commissioners' approval of the resolution to execute a license agreement with the Georgia Department of Human Services, Division of Family & Children Services will allow a state social service agency to temporarily provide community services from a county owned facility during the holiday season.

**Community Issues/Concerns:** None.

**Department Issues/Concerns:** None.

**History of BOC Agenda Item:** At the request of the Department of Real Estate and Asset Management the Fulton County Board of Commissioners previously approved as Agenda Item 18-0867 at the Board of Commissioner's Meeting held November 14, 2018 ("Initial License Agreement") for the same purpose as being requested.

<b>Contract &amp; Compliance Information</b>	<i>(Provide Contractor and Subcontractor details.)</i>
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<b>Agency Director Approval</b>		<b>County Manager's Approval</b>
<b>Typed Name and Title</b> Joseph N. Davis, Director, Department of Real Estate and Asset Management	<b>Phone</b> 404-612-3772	
<b>Signature</b>	<b>Date</b>	

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Solicitation Information	NON-MFBE	MBE	FBE	TOTAL
No. Bid Notices Sent:				
No. Bids Received:				

<b>Total Contract Value</b>	.
<b>Total M/FBE Values</b>	.
<b>Total Prime Value</b>	.

**Fiscal Impact / Funding Source** *(Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements.)*  
 Click here to enter text. Click here to enter text.

**Exhibits Attached** *(Provide copies of originals, number exhibits consecutively, and label all exhibits in the upper right corner.)*  
 Exhibit 1: Resolution  
 Exhibit 2: License Agreement

**Source of Additional Information** *(Type Name, Title, Agency and Phone)*  
 Michael A. Graham, Land Administrator 404- 612- 7884

Agency Director Approval		County Manager's Approval
<b>Typed Name and Title</b> Joseph N. Davis, Director, Department of Real Estate and Asset Management	<b>Phone</b> 404-612-3772	
<b>Signature</b>	<b>Date</b>	

Revised 03/12/09 (Previous versions are obsolete)

**Procurement**

<b>Contract Attached:</b> .	<b>Previous Contracts:</b> .		
<b>Solicitation Number:</b> .	<b>Submitting Agency:</b> .	<b>Staff Contact:</b> .	<b>Contact Phone:</b> .

**Description:.**

**FINANCIAL SUMMARY**

<b>Total Contract Value:</b>		<b>MBE/FBE Participation:</b>	
Original Approved Amount: .		Amount: .	%: .
Previous Adjustments: .		Amount: .	%: .
This Request: .		Amount: .	%: .
<b>TOTAL:</b> .		Amount: .	%: .

**Grant Information Summary:**

Amount Requested: .	<input type="checkbox"/>	Cash
Match Required: .	<input type="checkbox"/>	In-Kind
Start Date: .	<input type="checkbox"/>	Approval to Award
End Date: .	<input type="checkbox"/>	Apply & Accept
Match Account \$: .		

<b>Funding Line 1:</b> .	<b>Funding Line 2:</b> .	<b>Funding Line 3:</b> .	<b>Funding Line 4:</b> .
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**KEY CONTRACT TERMS**

<b>Start Date:</b> .	<b>End Date:</b> .
<b>Cost Adjustment:</b> .	<b>Renewal/Extension Terms:</b> .

**ROUTING & APPROVALS**  
(Do not edit below this line)

X	Originating Department:	Davis, Joseph	Date: 10/29/2019
X	County Attorney:	Stewart, Dernal	Date: 10/29/2019
.	Purchasing/Contract Compliance:	.	Date: .
.	Finance/Budget Analyst/Grants Admin:	.	Date: .
.	Grants Management:	.	Date: .
X	County Manager:	Anderson, Dick	Date: 11/8/2019

**EXHIBIT B**

**Insurance and Risk Management Provisions**

STATE PROPERTIES COMMISSION shall provide a Certificate of Insurance evidencing the following minimum coverages. In the event STATE PROPERTIES COMMISSION maintains broader coverages and/or higher limits than the minimum shown below, Fulton County Government requires and shall be entitled to coverage for the higher limits maintained by STATE PROPERTIES COMMISSION.

**1. WORKERS COMPENSATION/EMPLOYER’S LIABILITY INSURANCE – STATUTORY (In compliance with the Georgia Workers Compensation Acts and any other State or Federal Acts or Provisions in which jurisdiction may be granted)**

Employer’s Liability Insurance	BY ACCIDENT - EACH ACCIDENT	\$1,000,000.
Employer’s Liability Insurance	BY DISEASE - POLICY LIMIT	\$1,000,000.
Employer’s Liability Insurance	BY DISEASE - EACH EMPLOYEE	\$1,000,000.

Cover all of the STATE PROPERTIES COMMISSION personnel performing work in connection with this agreement.

**2. COMMERCIAL GENERAL LIABILITY INSURANCE (Including contractual Liability Insurance)**

Bodily Injury and Property Damage Liability (Other than Products/Completed Operations)	Each Occurrence	-	\$2,000,000
	General Aggregate	-	\$3,000,000
Products\Completed Operation	Aggregate Limit	-	\$2,000,000
Personal and Advertising Injury	Limits	-	\$1,000,000
Damage to Rented Premises	Limits	-	\$300,000

**3. UMBRELLA LIABILITY** Each Occurrence /Aggregate - \$1,000,000  
(In excess of above noted coverage’s)

**Certificates:**

STATE PROPERTIES COMMISSION shall provide Cancellation Endorsement evidencing 30 days’ Notice of Cancellation for the aforementioned coverages. Policies and Certificates of Insurance are to list the Fulton County Government, its Officials, Officers and Employees as an Additional Insured (except for Workers’ Compensation) using ISO Additional Insured Endorsement form CG 2010 (11/85) version, its’ equivalent or on a blanket basis.

The STATE PROPERTIES COMMISSION insurance shall apply as Primary Insurance before any other insurance or self-insurance, including any deductible, non-contributory, and Waiver of Subrogation provided in favor of Fulton County Government.

Additional Insured under the General Liability and Umbrella Policies (with exception of Workers Compensation), with no Cross Suits exclusion.

## # 19-0951

If Fulton County Government shall so request, STATE PROPERTIES COMISSION shall furnish the County for its inspection and approval such policies of insurance with all endorsements, or confirmed specimens thereof certified by the insurance company to be true and correct copies.

### **Important:**

The obligations for STATE PROPERTIES COMMISSION to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve STATE PROPERTIES COMMISSION from any liability incurred as a result of their or any agent or sub-contractors activities/operations in conjunction with the Agreement.

1 A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN FULTON  
2 COUNTY, GEORGIA AND THE GEORGIA DEPARTMENT OF HUMAN SERVICES,  
3 DIVISION OF FAMILY & CHILDREN SERVICES FOR USE OF COUNTY OWNED  
4 REAL PROPERTY FOR THE PURPOSE OF DISTRIBUTING TOYS AND ECONOMIC  
5 ASSISTANCE FROM WITHIN A FULTON COUNTY-OWNED REAL PROPERTY; TO  
6 AUTHORIZE THE CHAIRMAN OR THE COUNTY MANAGER TO EXECUTE THE  
7 LICENSE AGREEMENT; TO AUTHORIZE THE COUNTY ATTORNEY TO APPROVE  
8 THE LICENSE AGREEMENT AS TO FORM AND TO MAKE ANY MODIFICATIONS  
9 THEREOF PRIOR TO EXECUTION; AND FOR OTHER PURPOSES.

10 WHEREAS, Fulton County, Georgia is the largest and most populous county in  
11 the state of Georgia, which creates challenging circumstances in regards to animal  
12 population and control; and

13 WHEREAS, the Georgia Department of Human Services, Division of Family &  
14 Children Services, with several local offices throughout Fulton County (Region 14),  
15 (hereinafter, "DFCS") investigates reports of child abuse; finds foster and adoptive  
16 homes for abused and neglected children and provides several support services to help  
17 families in need; and

18 WHEREAS, the Christmas holidays are a special time of year for children during  
19 which lifelong memories are formed and it is desire of the FCS that these memories  
20 have positive impacts with the social development of those children who are members  
21 of families that are economically disadvantage ; and

22 WHEREAS, it is the desire of Fulton County to enter into a short term license  
23 agreement with the DFCS to occupy the County-owned facility located at 475 Fairburn  
24 Road Atlanta, Georgia, under the terms and conditions set forth in the license  
25 agreement for the purpose assembling and distributing toys and for children from  
26 families requiring assistance; and

27 WHEREAS, a county's Home Rule powers found in Article 9, § 2, Par. 1(a) of the  
28 Georgia Constitution provide in part "[t]he governing authority of each county shall have  
29 legislative power to adopt clearly reasonable ordinances, resolutions, or regulations  
30 relating to its property, affairs, and local government for which no provision has been  
31 made by general law and which is not inconsistent with this Constitution or any local law  
32 applicable thereto;" and

33 WHEREAS, pursuant to Fulton County Code of Laws ("FCC") 1-117, the Fulton  
34 County Board of Commissioners has exclusive jurisdiction and control over directing  
35 and controlling all the property of the county, as they may deem expedient, according to  
36 law; making such rules and regulations for the support of the poor of the county; and to



1 exercise such other powers as are granted by law, or are indispensable to their  
2 jurisdiction over county matters and county finances.

3 **NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners  
4 hereby approves the license agreement with the Georgia Department of Human  
5 Services, Division of Family & Children Services, in substantially the form attached  
6 hereto as Exhibit "A," ("License Agreement") and incorporated herein by reference.

7 **BE IT FURTHER RESOLVED**, that the Chairman of the Board of Commissioners  
8 or the County Manager is hereby authorized to execute the License Agreement and  
9 other necessary ancillary documents with the Georgia Department of Human Services,  
10 Division of Family & Children Services.

11 **BE IT FURTHER RESOLVED**, that the County Attorney is hereby authorized to  
12 approve the License Agreement and any other ancillary documents as to form and to  
13 make such other or additional modifications that are necessary, to protect the County's  
14 interests prior to execution by the Chairman or the County Manager.

15 **BE IT FINALLY RESOLVED**, that this Resolution shall become effective upon its  
16 adoption, and that all resolutions and parts of resolutions in conflict with this Resolution  
17 are hereby repealed to the extent of the conflict.

18 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,  
19 Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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**FULTON COUNTY BOARD OF  
COMMISSIONERS**

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SPONSOR BY:

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Natalie Hall District 4  
Fulton County Board of Commissioners

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ATTEST:

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Tonya R. Grier, Interim Clerk  
to the Commission

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38 APPROVED AS TO FORM:

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Patrise Perkins-Hooker, County Attorney

**RIGHT OF ACCESS LICENSE AGREEMENT BETWEEN  
FULTON COUNTY, GEORGIA AND THE GEORGIA DEPARTMENT OF HUMAN  
SERVICES, DIVISION OF FAMILY AND CHILDREN SERVICES**

THIS RIGHT OF ACCESS LICENSE AGREEMENT (“Agreement”) is made and entered into by and between Fulton County, a political subdivision of the State of Georgia (referred to herein as “Fulton County” and/or “Licensor”) and the Georgia Department of Human Services for and on behalf of its Division of Family and Children Services in Fulton County (referred to herein as “DFCS and/or “Licensee”) (collectively referred to as, the “Parties”).

**WITNESSETH:**

**WHEREAS**, DFCS is located at 2 Peachtree Street, NW, Suite 18-486, Atlanta, GA 30303, and is an agency of the State of Georgia; and

**WHEREAS**, the purpose of DFCS is to promote healthy family relationships and provide assistance to those families, children and residents that have expressed a need for assistance; and

**WHEREAS**, in furtherance of this purpose, DFCS collects and distributes care packages and toys each year during the holiday season for economically disadvantaged families within the community; and

**WHEREAS**, Fulton County owns certain real property located at 475 Fairburn Road Atlanta, Georgia consisting of 1,111 square feet (hereinafter, “Premises”); and

**WHEREAS**, DFCS desires to utilize the County owned Premises to store, assemble and distribute toys and care packages to serve families in need during the holiday season; and

**WHEREAS**, pursuant to O.C.G.A § 36-1-19.1, Fulton County is authorized to make contributions to any corporation, association, institution, or individual for purely charitable purposes, provided that the activities funded by any such contribution must take place within Fulton County, with “purely charitable purposes” to mean for a charitable, benevolent, or

philanthropic purposes for health, education, social welfare, arts and humanities, or environmental organizations; and

**WHEREAS**, the Parties deems it to be in the best interest of both parties to enter into a Right of Access License Agreement to allow DFCS to store, assemble and distribute toys and care packages to serve families in need during the holiday season.

**NOW THEREFORE**, in consideration of the mutual benefits to inure to both parties, it is hereby agreed as follows:

1.

**GRANT AND TERM OF LICENSE**

Fulton County hereby grants the DFCS in Fulton County the right of access license for the real property located at 475 Fairburn Road Atlanta, Georgia for a period beginning upon execution by the Parties of this Agreement and ending on March 31, 2020. The Term shall be deemed to commence on the day that this Agreement is executed, and shall terminate at midnight on March 31, 2020, unless otherwise extended by mutual consent by both Parties.

2.

**RIGHT OF ACCESS AND USE OF THE LICENSE**

Licensee, along with any of its agents, has the right to use the County-owned facility located at 475 Fairburn Road Atlanta, Georgia in accordance with the terms and conditions of this Agreement for the purpose of, receiving, assembling and distributing care packages and toys for economically disadvantaged families. Licensee shall comply with all applicable state, local, and federal laws, regulations, policies and procedures in its use of the premises. Under no circumstances shall Licensee knowingly permit illegal activities to occur in conjunction with the use of the facilities subject this agreement.

3.

**MAINTENANCE**

Licensors shall perform routine maintenance to the facility as the need arises, which shall include but not limited to janitorial services or any other maintenance services as may be required for the intended operational use.

4.

**DEFAULT; CURE; TERMINATION OF AGREEMENT**

If either Party violates any of its obligations under this Agreement, the non-violating party will provide a written request for correction to the violating party within ten (10) days after its receipt of the request for correction. If the violating party has not substantially corrected the noted breach, the non-violating party, at its option, may terminate this Agreement immediately, and Licensee shall remove all property located inside the subject property within thirty (30) days of receiving or providing such written notice of termination of the Agreement. Either Party may terminate the Agreement for convenience or any other reason with fifteen (15) days written notice to the other Party. Licensee shall remove all of its property located within the subject property within ten (10) days of receiving or providing such written notice of termination of this Agreement. Upon termination of this Agreement for any reason, Licensee and its agents shall have the right to remove any and all movable property and equipment which they have furnished or installed on the premises, provided that Licensee shall repair any and all damages to the premises caused by such installation or removal.

5.

**MISCELLANEOUS**

- A. The brief capitalized and underlined headings or titles preceding each paragraph are for purposes of identification, convenience and ease of reference, and shall be disregarded in the construction of this Agreement.
- B. No failure of either party hereto to exercise any right or power granted under this Agreement, or to insist upon strict compliance by the other party with this Agreement, and terms and conditions of this Agreement, shall constitute a waiver of either party's right to demand exact and strict compliance by the other party hereto with the terms and conditions of this Agreement.
- C. This Agreement shall be governed by, construed under, performed and enforced in accordance with the laws of the state of Georgia.
- D. Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the Parties that the court interpreting or construing the same shall not apply a presumption that the terms, conditions, and provisions hereof shall be more strictly construed against one party by reason of the rule of construction

than an instrument is to be construed more strictly against the party who prepared the same.

- E. This Agreement may be executed in two (2) counterparts, each of which is deemed an original or of equal dignity with the other and which is deemed one and the same instrument as the other.
- F. Licensee hereby acknowledges that it has not been induced by any representation, statements, or warranties by Licensor including, but not limited to, representations or warranties with respect to title to the Premises or the condition or suitability thereof for Licensee's purpose.
- G. Licensee shall not place or store, nor permit to be placed or stored, any Hazardous Substances (as defined in 42 U.S.C. § 9601, *et seq.*), petroleum products or other pollutants, toxic substances or environmental hazards within, on or around facility.
- H. This Agreement supersedes all prior negotiations, discussions, statements and constitutes the full, complete and entire agreement between the Parties with respect to the county owned facility at 475 Fairburn Road Atlanta, Georgia for Licensee's use thereof. No member, officer, employee, representative or agent of Licensor or Licensee has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement. No modification of or amendment to this Agreement shall be binding on either Party hereto unless such modification or amendment shall be properly authorized, in writing, properly signed by both Licensor and Licensee and incorporated in and by reference made a part hereof.

6.

### **LIABILITY AND INDEMNIFICATION**

To the extent allowable by law, Licensee agrees to indemnify and hold harmless Fulton County, its Commissioners, officers, agents and employees, from and against any claim or liability of any nature, including but not limited to injury to person or property on or about the Licensed Premises, caused solely by the activity of the Licensee, licensee's guests, contractors or invitees.

7.

**INSURANCE**

Licensee shall furnish Licensor with certificates of insurance coverages or other acceptable evidence that such insurance is in effect as stipulated in Exhibit “B” attached hereto.

7.

**NOTICES**

All notices, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or certified U.S. mail, return receipt requested, or by UPS Next Day Air Note or overnight courier, or by hand delivery with signature of recipient required by reputable courier, to each party at the addresses set forth below. The day upon which such notice is hand delivered or mailed shall be deemed the date of service of such notice.

To Fulton County:

Fulton County Manager  
141 Pryor Street  
Atlanta, Georgia 30303  
Attention: Richard “Dick” Anderson

With a copy to:

Office of the County Attorney  
141 Pryor Street, SW, Suite 4038  
Atlanta, Georgia 30303  
Attention: Patrise Perkins-Hooker,  
County Attorney

Department of Real Estate and Asset Management  
141 Pryor Street, SW  
Atlanta Georgia 30303  
Attention: Ellis Kirby, Deputy Chief Operating  
Office of the County Manager

To: Georgia Department of Human Services:

270 Washington Street, Suite 2-129  
Atlanta, Georgia 30334  
C/O State Properties Commission

**IN WITNESS WHEREOF**, the parties have set their hands and affixed their seals this  
the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**LICENSOR:**

Fulton County, Georgia

\_\_\_\_\_  
Robert L. Pitts, Chairman  
Fulton County Board of Commissioners

**ATTEST:**

\_\_\_\_\_  
Tonya R. Grier  
Interim Clerk to the Commission

Approved as to Form:

\_\_\_\_\_  
Patrise Perkins-Hooker  
County Attorney

**LICENSEE:**

The Department of Human Services,  
Division of Family and Children Services  
c/o STATE PROPERTIES COMMISSION

By: \_\_\_\_\_  
Kristen Toliver, County Director  
Fulton County DFCS



**Exhibit A**

**Description of Property**

**# 19-0951**

**Exhibit B**

**Insurance**

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