



Fulton County Board of Commissioners
Agenda Item Summary

18-0988

BOC Meeting Date
 12/19/2018

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 approving a second Amendment to Lease Agreement between Fulton County, Georgia, a political subdivision of the state of Georgia (Tenant) and KDI Atlanta Mall, LLC (Landlord) to extend the term for the purpose of providing office space for the operations of the Fulton County Tax Commissioner at 2841 Greenbriar Parkway, Suite 108 Atlanta, Georgia; authorizing the Chairman to execute the Second Amendment to Lease Agreement and related documents; and for other purposes

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

According to O.C.G.A. § 36-60-13, each County or municipality in this state shall be authorized to enter into multiyear lease, purchase, or lease purchase contracts of all kinds for the acquisition of goods materials, real and personal property, services and supplies.

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 Fulton County Board of Commissioners' approval is required to extend the current lease term for a period up to one year to allow the Office of the Fulton County Tax Commissioner to continue their occupancy at 2841 Greenbriar Parkway Atlanta, Georgia for the collection of ad valorem taxes. Presently the Greenbriar Tag Office location serves between five and six hundred Fulton County citizens per day at this location.

Community Impact: The extension of the current lease will have no impact on the residents that utilized this location for the payment of their ad valorem taxes. Additionally an extension of the current lease will provide staff time to carry out a relocation initiative intended to improve service levels and efficiency.

Department Recommendation: The Department of Real Estate and Asset Management recommends approval by the Fulton County Board of Commissioners to extend the current lease at 2841 Greenbriar Parkway Atlanta for a period up to one year.

Project Implications: This lease extension will allow the time required to identify and prepare an alternative site for the relocation of tag office operations with no interruption of services.

Agency Director Approval		County Manager's Approval
Typed Name and Title Ellis G. Kirby, LEED AP, CEM, CEFP, Deputy Chief Operating Office of the County Manager	Phone 404-612-5919	
Signature	Date	

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

Community Issues/Concerns: None.

Department Issues/Concerns: None.

History of BOC Agenda Item: Original full service lease agreement was approved as Agenda Item #05-1056 at the Board of Commissioners' Meeting of September 21, 2005. On December 21, 2016, the Board of Commissioners approved the First Amendment to the original lease for Facilities, extending the term through December 31, 2017, as Agenda Item #16-1164.

Contract & Compliance Information

(Provide Contractor and Subcontractor details.)

Agency Director Approval		County Manager's Approval
Typed Name and Title Ellis G. Kirby, LEED AP, CEM, CFP, Deputy Chief Operating Office of the County Manager	Phone 404-612-5919	
Signature	Date	

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

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

Total Contract Value	.
Total M/FBE Values	.
Total Prime Value	.

Fiscal Impact / Funding Source *(Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements.)*
 Monthly rental payments of \$8,093.26 will be paid from funding line 100 245 2456 1121.

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

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

Agency Director Approval		County Manager's Approval
Typed Name and Title Ellis G. Kirby, LEED AP, CEM, CEFP, Deputy Chief Operating Office of the County Manager	Phone 404-612-5919	
Signature	Date	

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

Procurement

Contract Attached: .	Previous Contracts: .		
Solicitation Number: .	Submitting Agency: .	Staff Contact: .	Contact Phone: .

Description:.

FINANCIAL SUMMARY

Total Contract Value:		MBE/FBE Participation:	
Original Approved Amount: .		Amount: .	%. .
Previous Adjustments: .		Amount: .	%. .
This Request: .		Amount: .	%. .
TOTAL: .		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 \$: .		

Funding Line 1: .	Funding Line 2: .	Funding Line 3: .	Funding Line 4: .
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KEY CONTRACT TERMS

Start Date: .	End Date: .
Cost Adjustment: .	Renewal/Extension Terms: .

ROUTING & APPROVALS
(Do not edit below this line)

X	Originating Department:	Kirby, Ellis	Date: 12/10/2018
X	County Attorney:	Stewart, Derval	Date: 12/9/2018
.	Purchasing/Contract Compliance:	.	Date: .
.	Finance/Budget Analyst/Grants Admin:	.	Date: .
.	Grants Management:	.	Date: .
X	County Manager:	Anderson, Dick	Date: 12/10/2018

1 A RESOLUTION APPROVING A SECOND AMENDMENT TO LEASE AGREEMENT
2 BETWEEN FULTON COUNTY, GEORGIA, A POLITICAL SUBDIVISION OF THE
3 STATE OF GEORGIA (“TENANT”), AND KDI ATLANTA MALL, LLC
4 (“LANDLORD”), FOR THE PURPOSE OF EXTENDING THE TERM TO PROVIDE
5 OFFICE SPACE FOR THE OPERATIONS OF THE FULTON COUNTY TAX
6 COMMISSIONER AT 2841 GREENBRIAR PARKWAY, SUITE 108 ATLANTA,
7 GEORGIA; AUTHORIZING THE CHAIRMAN TO APPROVE THE SECOND
8 AMENDMENT TO LEASE AGREEMENT AND RELATED DOCUMENTS; AND FOR
9 OTHER PURPOSES.

10
11 WHEREAS, the Office of the Fulton County Tax Commissioner is responsible
12 for the collection of ad valorem taxes for real and personal property from all Fulton
13 County residents; and

14 WHEREAS, the Office of the Fulton County Tax Commissioner desires to remain
15 at the current leased location at 2841 Greenbriar Parkway, Suite 108, Atlanta, Georgia,
16 during the process of selecting an alternate location from within the community from
17 which tax collection location services can continue to be provided at optimal efficiency
18 and from an easily accessible location; and

19 WHEREAS, it is the desire of Fulton County to enter into a lease extension
20 agreement with KDI ATLANTA MALL, LLC, a Georgia limited liability company, in order
21 to extend the current lease for the period necessary to complete the selection and
22 required renovation of an alternate location for the purpose of providing an accessible
23 location for the collection of ad valorem taxes within the community; and

24 WHEREAS, Article 9, § 2, Par. 1(a) of the Georgia Constitution states in part
25 “[t]he governing authority of each county shall have legislative power to adopt clearly
26 reasonable ordinances, resolutions, or regulations relating to its property, affairs, and
27 local government for which no provision has been made by general law and which is not
28 inconsistent with this Constitution or any local law applicable thereto.”

29 NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners
30 hereby approves the Second Amendment to Lease Agreement with KDI ATLANTA
31 MALL, LLC, to extend the Lease Tterm, in substantially the form attached hereto as
32 Exhibit “A,” and incorporated herein by reference.

33 BE IT FURTHER RESOLVED, that the Chairman of the Board of Commissioners
34 is hereby authorized to execute the Second Amendment to Lease Agreement between
35 Fulton County and KDI ATLANTA MALL, LLC, after approval as to form by the County
36 Attorney.

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

PASSED AND ADOPTED by the Board of Commissioners of Fulton County, Georgia, this _____ day of _____, 2018.

FULTON COUNTY BOARD OF COMMISSIONERS

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

ATTEST:

Jessie Harris, Clerk to the Commission

APPROVED AS TO FORM:

Patrise Perkins-Hooker, County Attorney

**SECOND AMENDMENT TO
MASTER LEASE AGREEMENT FOR FACILITIES**

This **SECOND AMENDMENT TO MASTER LEASE AGREEMENT FOR FACILITIES** ("Second Amendment") made this _____ day of _____, 2018, by and between **KDI ATLANTA MALL, LLC**, a Georgia limited liability company, as successor in interest to Greenbriar Mall Limited Partnership (hereinafter referred to as, "Landlord") and **FULTON COUNTY**, a political sub-division of the State of Georgia (hereinafter referred to as, "Tenant").

W I T N E S S E T H:

WHEREAS, Landlord’s predecessor in interest and Tenant entered into that certain Master Lease Agreement for Facilities dated September 28, 2005, as amended by that certain First Amendment to Master Lease Agreement for Facilities dated December 21, 2016 (collectively the "Lease"), wherein Landlord leased to Tenant and Tenant leased from Landlord the "Premises," as more particularly described in the Lease, consisting of approximately 4,315 square feet of space, commonly known as Store #X106/X108 in the Greenbriar Mall at 2841 Greenbriar Parkway, Atlanta, Georgia; and

WHEREAS, the Term of the Lease is scheduled to expire on December 31, 2018 (the “Termination Date”), and the parties desire to extend the term of the Lease until December 31, 2019; and

WHEREAS, the Landlord is the current owner of the Premises and is the successor Landlord under the Lease; and

WHEREAS, Landlord and Tenant desire, by this Second Amendment, to amend and modify the Lease as hereinafter set forth to extend the Term and for other purposes as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Extended Term**. The Termination Date of the Lease is hereby extended by this Second Amendment to December 31, 2019, with a one year Tenant option term to extend the lease term to December 31, 2020 (the “Second Extended Term”), and Section 2(b) of the Lease is hereby amended accordingly. Tenant shall provide landlord written notice of Tenant’s intent to exercise the Second Extend Term within ninety (90) days prior to the expiration of the Lease as amended by this Second Amendment.
2. **Lease Extension Based on Appropriation of Funds**. Pursuant to O.C.G.A §36-60-13, Landlord acknowledges that any extended term shall be contingent upon the availability and appropriation of funds by the Fulton County Board of Commissioners. If such funds are not available and appropriated for any Extended Term, Tenant shall provide a “Notice of Lease Termination.” In no event shall the Lease, as amended herein, continue beyond December 31, 2020, unless extended by mutual written agreement of both parties.

3. **Early Termination.** The Lease may be terminated by either Landlord or Tenant with 90 days advance written notice (the “Notice of Lease Termination”) to the non-terminating party.
4. **Definition of Terms.** Except as otherwise specifically provided herein, all terms defined in the Lease and delineated herein by initial capital letters shall have the same meaning herein as are ascribed to such terms in the Lease.
5. **Minimum Rent.** Section 3 of the Lease, as amended hereby, is further amended by this Second Amendment to reflect that commencing on January 1, 2019, until the Termination Date, the Minimum Rent shall be \$97,119.16 per annum payable in equal monthly installments of \$8,093.26.
6. **Utilities.** During the remainder of the Term, Tenant shall continue to pay for all utilities consumed at the Premises in accordance with the terms of the Lease, as amended.
7. **Notice Addresses.** Section 32 of the Lease is hereby amended to reflect that the Landlord’s notice addresses are as follows:

Address for Payment of Rent:

KDI Atlanta Mall, LLC
c/o Hendon Properties, LLC
Two Live Oak Center
3445 Peachtree Road, N.E.
Suite 465
Atlanta, Georgia 30326

Landlord’s Notice Address:

KDI Atlanta Mall, LLC
c/o Hendon Properties, LLC
Two Live Oak Center
3445 Peachtree Road, N.E.
Suite 465
Atlanta, Georgia 30326
Attn: J. Charles Hendon, Jr.

KDI Atlanta Mall, LLC
Attn: Property Manager
Greenbriar Mall
2841 Greenbriar Parkway, S.W.
Atlanta, Georgia 30331

Landlord’s Notice Copy Address:

Hartman Simons & Wood LLP

6400 Powers Ferry Road, N.W.
Suite 400
Atlanta, Georgia 30339
Attn: Robert D. Simons, Esq.

Tenant's Notice Address:

Fulton County
Attention: Director of Real Estate & Asset Management
141 Pryor Street
Suite 6001
Atlanta, Georgia 30303

With a Copy to:
Fulton County
Attention: County Attorney
141 Pryor Street
Suite 4038
Atlanta, Georgia 30303

With a Copy to:
Fulton County
Attention: County Manager
141 Pryor Street
10th Floor
Atlanta, Georgia 30303

With a Copy to:
Fulton County Land Division
Attention: Land Administrator
141 Pryor Street, Suite 8021
Atlanta, Georgia 30303

8. **Miscellaneous.** Except as modified and amended hereby by the Second Amendment, the Lease has not been modified or amended, and is hereby ratified and confirmed by Landlord and Tenant and is hereby declared by Landlord and Tenant to be in full force and effect. This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which, collectively, shall be one and the same instrument. Electronic or facsimile signatures shall be deemed to be originals thereof for all purposes hereunder. This Second Amendment is binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, this Amendment has been executed as a sealed instrument as of the day and year first above written.

“TENANT”

“LANDLORD”

Fulton County, A political subdivision of the State of Georgia

KDI ATLANTA MALL, LLC, a Georgia limited liability company

By: KDI ATLANTA MALL HOLDING COMPANY, LLC, its Sole Manager

By: HENDON GREENBRIAR MALL MANAGER, LLC, its Sole Manager

By: _____
Robert L. Pitts, Chair
Fulton County Board of Commissioners

BY: _____
J. Charles Hendon, Jr.
Sole Member

Date Signed: _____

ATTEST:

Jesse Harris, Clerk to the Commission

Affix Seal

Affix Seal

APPROVED AS TO FORM for Fulton County:

This ____ day of _____, 2018

Office of the County Attorney