

1 **AN ORDINANCE TO AMEND CHAPTER 102 (ADMINISTRATION), ARTICLE V**
2 **(PURCHASES AND CONTRACTS), DIVISION 1 (GENERAL PROVISIONS),**
3 **SECTION 102-351 (DEFINITIONS) AND DIVISION 3 (SOURCE SELECTION AND**
4 **CONTRACT FORMATION), SECTION 102-373 (COMPETITIVE SEALED BIDDING)**
5 **OF THE FULTON COUNTY CODE OF ORDINANCES TO ALTER THE PUBLIC**
6 **NOTICE REQUIREMENTS FOR ADVERTISEMENTS INVITING RESPONSES TO**
7 **FULTON COUNTY SOLICITATIONS TO PERMIT, BUT NOT REQUIRE, SUCH**
8 **ADVERTISEMENTS TO BE PUBLISHED IN THE COUNTY'S LEGAL ORGAN; AND**
9 **FOR OTHER PURPOSES.**

10 **WHEREAS**, public advertisement of solicitations for Fulton County contracts is

11 necessary to ensure competition in the procurement and award of such contracts; and

13 **WHEREAS**, one means of ensuring that important information from Fulton

14 County is publicly available, including the procurement process and any instructions to

15 interested parties, is through the use of newspaper meeting the requirements to be a

16 "legal organ" as detailed in O.C.G.A. § 9-13-142; and

17 **WHEREAS**, Fulton County's legal organ changed, effective January 1, 2024,

18 from the *Fulton County Daily Report* to the *South Fulton Neighbor*; and

19 **WHEREAS**, the cost to advertise solicitations in the *South Fulton Neighbor* is

20 more than the cost to advertise in the *Fulton County Daily Report* was and the lead time

21 for submitting advertisements in the *South Fulton Neighbor* is longer than it was to

22 submit advertisements in the *Fulton County Daily Report*; and

23 **WHEREAS**, having considered the matter, the Department of Purchasing and

24 Contract Compliance wishes to utilize the other permitted alternatives to meet the public

25 notice requirement as provided by state law; and

26 **WHEREAS**, O.C.G.A. §§ 36-91-20 ("Contracts to be in writing and available for

27 public inspection; competitive bids or proposals; notice; addenda; prequalification of

28 prospective bidders") and 36-80-27 ("Advertisement in the Georgia Procurement

29 Registry") provides for solicitations to be advertised by other methods outside of
30 advertisement in the legal organ of a county; and

31 **WHEREAS**, the laws of the State of Georgia that reference a county's use of
32 legal organ to advertise solicitations do not require its use, but rather mention it in a list
33 of alternatives for public notification; and

34 **WHEREAS**, Fulton County Code of Ordinances Section 102-351 currently
35 defines "advertisement" as meaning "public notice inviting bids or proposals on a
36 specified project" and requires that all "projects shall be published in the county's legal
37 organ and on the Fulton County website under 'Bid Opportunities"'; and

38 **WHEREAS**, Fulton County Code of Ordinances Section 102-373(b)(1) currently
39 requires that, in addition to being posted on a website of Fulton County or a website
40 designated by Fulton County for inviting bids, the Department of Purchasing and
41 Contract Compliance "shall place an advertisement inviting bids in the county's legal
42 organ and in any other medium"; and

43 **WHEREAS**, having considered the matter, the Department of Purchasing and
44 Contract Compliance wishes to utilize the other permitted alternatives to meet the public
45 notice requirement for solicitations as provided by state law; and

46 **WHEREAS**, the Board of Commissioners finds that it is in the best interest of the
47 public to amend Section 102-351 and Section 102-373 of the Fulton County Code to
48 remove the requirement that County solicitations be advertised in the County legal
49 organ; and

50 **WHEREAS**, pursuant to Art. IX, § II, ¶ 1(a) of the Georgia Constitution, the Board
51 of Commissioners has the "legislative power to adopt clearly reasonable ordinances,

52 resolutions, or regulations relating to its property, affairs, and local government for
53 which no provision has been made by general law and which is not inconsistent with
54 this Constitution or any local law applicable thereto."

55 **NOW, THEREFORE, BE IT ORDAINED**, that the Fulton County Board of
56 Commissioners hereby amends Section 102-351 of the Fulton Code of Ordinances to
57 permit, but not require, County solicitations to be published in the County's legal organ,
58 so that, when amended, Section 102-351 shall read in full as in Exhibit A, attached
59 hereto and fully incorporated by reference, with all other sections having the same force
60 and effect.

61 **BE IT FURTHER ORDAINED**, that the Fulton County Board of Commissioners
62 hereby amends Section 102-373 of the Fulton Code of Ordinances to permit, but not
63 require, County solicitations to be published in the County's legal organ so that, when
64 amended, Section 102-373 shall read in full as in Exhibit B, attached hereto and fully
65 incorporated by reference, with all other sections having the same force and effect.

66 **BE IT FINALLY ORDAINED**, that this Ordinance shall become effective when
67 passed and adopted, and that all ordinances and resolutions and parts of ordinances
68 and resolutions in conflict with this Ordinance are hereby repealed to the extent of the
69 conflict.

70 **SO PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
71 Georgia this ____ day of _____, 2024.

72 **FULTON COUNTY BOARD OF**
73 **COMMISSIONERS**

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Robert L. Pitts, Chairman

78 ATTEST:

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81 Tonya R. Grier, Clerk to the Commission

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84 APPROVED AS TO FORM:

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87 Y. Soo Jo, County Attorney