

1 AN ORDINANCE TO AMEND FULTON COUNTY CODE OF ORDINANCES, PART I
2 (LOCAL CONSTITUTIONAL AMENDMENTS AND LOCAL ACTS), SUBPART B
3 (CODE OF RESOLUTIONS), CHAPTER 102 (ADMINISTRATION), ARTICLE V
4 (PURCHASES AND CONTRACTS), DIVISION 8 (NONDISCRIMINATION IN
5 PURCHASING AND CONTRACTING), SECTION 102-441.2 (SUNSET PROVISION),
6 TO EXTEND THE EXPIRATION DATE OF SAID NONDISCRIMINATION
7 PROGRAM FROM JUNE 30, 2024, TO DECEMBER 31, 2024; AND FOR OTHER
8 PURPOSES.

9
10 **WHEREAS**, the purpose of the Board of Commissioners adopting Part I, Subpart
11 B, Chapter 102, Article V, Division 8, Section 102-441.2 of the Fulton County Code of
12 Ordinances entitled “Non-Discrimination in Purchasing and Contracting,” is to promote
13 full and equal business opportunities for all persons doing business with Fulton County;
14 to reinforce and support outreach efforts to open contracting opportunities to
15 all businesses, regardless of size, race gender or ethnicity; and to ensure that Fulton
16 County does not become a passive participant in racial, ethnic and gender
17 discrimination; and;

18 **WHEREAS**, to provide justification for the adoption of its nondiscrimination in
19 purchasing and contract program (i.e., Section 102-441.2) on November 20, 2019, Fulton
20 County conducted a disparity study “(Disparity Study)” in 2018; and

21 **WHEREAS**, disparity studies determine if inequities exist in public procurement
22 and contracting that adversely affect disadvantaged businesses / minorities and/or
23 women; and

24 **WHEREAS**, in 1989, the U.S. Supreme Court ruled that governments must
25 establish a “compelling interest” to support the creation of contracting programs that
26 specifically target minority – and/or women-owned businesses; and

WHEREAS, a disparity study helps ensure any race-or gender-based remedial
programs will withstand scrutiny in a court of law; and

27 **WHEREAS**, Section 102-441.2 (Sunset Provisions) of Fulton County Code of
28 Ordinances provides that “[I]f a disparity study is not completed within five years of the
29 2018 Disparity Study, the nondiscrimination policy set forth hereinabove shall sunset on
30 December 31, 2023”; and

31 **WHEREAS**, the Supreme Court of the United States has required that disparity
32 studies be conducted periodically to review the requirements of contracting programs that
33 promote full and equal business opportunities for all persons doing business with the
34 governmental body; and

35 **WHEREAS**, in 2023, Fulton County commissioned its most recent Disparity Study;
36 and

37 **WHEREAS**, due to the Cyber Incident and the issues with the County’s ERP
38 System, Purchasing has been unable to provide critical data needed from the system to
39 provide the required data to the Consultant and to confirm data; and

40 **WHEREAS**, this additional time is needed to ensure the County’s ERP System
41 is fully restored and required the data can be provided; and

42 **WHEREAS**, additional time is required in order for the ERP System to be fully
43 restored to retrieve the require data and for review by the Office of the County Attorney
44 and the Department of Purchasing & Contract Compliance; and

45 **WHEREAS**, the Board of Commissioners finds it to be in the public interest to
46 extend the time needed to complete the Disparity Study for the nondiscrimination policy.

47 **NOW, THEREFORE, BE IT ORDAINED**, by the Fulton County Board of
48 Commissioners, that Part I, Subpart B, Chapter 102, Article V, of Fulton County Code
49 Section 102-441.2, is hereby amended by deleting it in its entirety and replacing it to read
as follows with all other sections having the same force and effect:

Section 102-441.2. Sunset provision.

50 If a disparity study is not completed within five years of the 2018 Disparity Study, the
51 nondiscrimination policy set forth hereinabove shall sunset on December 31, 2024.

52 ~~Sec. 102-441.2. Sunset provision.~~

53 ~~If a disparity study is not completed within five years of the 2018 Disparity Study,~~
54 ~~the nondiscrimination policy set forth hereinabove shall sunset on June 30, 2024.~~

55 ~~(Ord. No. 23-0883, Exh. 1, 12-6-2023)~~

56 **BE IT FINALLY BE ORDAINED**, that this Ordinance shall become effective upon
57 its adoption, and that the amended Fulton County Purchasing Code shall apply to all
58 procurements initiated after adoption of this Ordinance and that all ordinances and
59 resolutions and parts thereof conflict with this Ordinance are hereby repealed.

60 **SO PASSED AND ADOPTED**, by the Board of Commissioners of Fulton
61 County Georgia this 15th day of May 2024.

62 **FULTON COUNTY BOARD**
63 **OF COMMISSIONERS**

64
65 By: _____
66 Robert L. Pitts, (At Large)
67 Chairman
68

68 **ATTEST:**

69
70 _____
71 Tonya R. Grier, Clerk to the Commission
72

73 **APPROVED AS TO FORM:**

74
75 _____
76 Y. Soo Jo, County Attorney