

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.

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

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

~~If a disparity study is not completed within five years of the 2018 Disparity Study, the nondiscrimination policy set forth hereinabove shall sunset on June 30, 2024. (Ord. No. 23-0883, Exh. 1, 12-6-2023)~~

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of this Ordinance and that all ordinances and resolutions and parts thereof conflict with this Ordinance are hereby repealed.

**SO PASSED AND ADOPTED**, by the Board of Commissioners of Fulton County Georgia this 15<sup>th</sup> day of May 2024.

**FULTON COUNTY BOARD  
OF COMMISSIONERS**

By: \_\_\_\_\_  
Robert L. Pitts, (At Large)  
Chairman

**ATTEST:**

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

**APPROVED AS TO FORM:**

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Y. Soo Jo, County Attorney