

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

27       **WHEREAS**, a disparity study helps ensure any race-or gender-based remedial  
28       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:

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 15<sup>th</sup> day of May 2024.

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

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

68 **ATTEST:**

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

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73 **APPROVED AS TO FORM:**

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75 \_\_\_\_\_  
76 Y. Soo Jo, County Attorney