

1 **A RESOLUTION APPROVING THE ORDERLY CLOSEOUT OF THE FULTON**
2 **COUNTY BUSINESS IMPROVEMENT LOAN PROGRAM (BILP) CONSISTENT**
3 **WITH THE POLICY FRAMEWORK CREATED BY THE DEPARTMENT OF**
4 **HOUSING AND URBAN DEVELOPMENT; AUTHORIZING THE COUNTY**
5 **MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY AND**
6 **RELATED DOCUMENTS TO IMPLEMENT THE POLICY FOR THE BILP AND**
7 **TO EFFECTUATE ITS CLOSEOUT; AND FOR OTHER RELATED**
8 **PURPOSES.**

9
10 **WHEREAS**, Fulton County is authorized to engage in and expend funds for
11 community development programs and activities that assist persons of low and
12 moderate income; and

13 **WHEREAS**, many small businesses face dire situations in that they are impacted
14 by a downturn in the economy and may only survive via an infusion of cash; and

15 **WHEREAS**, the continued viability of small businesses is a critical goal of Fulton
16 County, since small business are owned locally and employ mostly people from local
17 communities; and

18 **WHEREAS**, the Community Development Block Grant ("CDBG") is an
19 entitlement program administered by the U.S. Department of Housing and Urban
20 Development ("HUD") under Title I of the Housing and Community Development Act of
21 1974, as amended, that provides annual grants on a formula basis, to entitled cities and
22 counties to develop viable urban communities; and

23 **WHEREAS**, CDBG funds can be used for a variety of purposes, including public
24 service needs, infrastructure needs, low-moderate income housing needs, and other
25 eligible activities, which includes economic development needs such as providing
26 capital to businesses through grants or loans; and

27 **WHEREAS**, recipients of CDBG Funds through the CDBG Program must meet
28 the national objectives in that the award of CDBG funds must: (1) give maximum

1 feasible priority to activities that benefit low to moderate income persons; (2) may aid in
2 the prevention of slums or blight; or (3) fund activities that meet other community
3 development needs having a particular urgency due to an immediate threat to health or
4 welfare of the community, and other financial resources are not available to meet such
5 needs; and

6 **WHEREAS**, to benefit its local business community, the Fulton County Board of
7 Commissioners, through its Housing and Community Development Department (now
8 Community Development Department), implemented its Fulton County Business
9 Improvement Loan Program (“BILP”) to serve a federally funded economic development
10 vehicle designed to facilitate small business development in Fulton County with the
11 primary goal to create and retain jobs for low and moderate income persons; and

12 **WHEREAS**, the BILP program has been funded using Fulton County
13 administered CDBG federal dollars in years 2004, 2005, 2006, 2007, 2010, and 2011,
14 through the Department of Housing and the Economic Development Corporation of
15 Fulton County (“EDCFC”), a not-for-profit entity, to provide financial assistance to start-
16 up businesses, job creation for low to moderate-income citizens, and administrative
17 support and sustainability of the EDCFC; and

18 **WHEREAS**, in granting the CDBG loans, Fulton County recognizes that many of
19 these small businesses have difficulty in qualifying for loans from traditional banks and
20 credit unions without the ability to demonstrate the means to repay debt, thus making it
21 necessary for Fulton County to step in to fill the gap through loans to infuse necessary
22 capital to enable these businesses to survive; and

1 **WHEREAS**, the BILP was implemented with a Policies and Procedures Manual
2 ("Manual") that provided a roadmap for the operation of the program and imposed
3 conditions for small businesses to obtain the loans, and mechanisms to handle
4 repayment and defaults, with a copy of this Manual, incorporated as Attachment "A"
5 hereto; and

6 **WHEREAS**, the County partnered with Economic Development Corporation of
7 Fulton County (EDCFC) to administer the program on behalf of the Department of
8 Community Development, to include maintaining eligibility records, maintaining success
9 statistics of the program and determining if borrowers were eligible for BILP financing;
10 and

11 **WHEREAS**, despite these safeguards being implemented for the BILP, over the
12 years, many of the loan recipients have defaulted on their loans, with many of these
13 businesses no longer in operation, resulting in the BILP being paused so that the
14 Department of Community Development could ascertain its continued viability; and

15 **WHEREAS**, in its current construct, the Department of Community Development
16 continues to receive a reoccurring audit finding from HUD relating to how the BILP is
17 administered, stemming from the County's deficient partnership with the EDCFC, which
18 has been administratively dissolved by the Georgia Secretary of State since 2016; and

19 **WHEREAS**, in addition, the loan servicing system, Loan Management Software
20 (LMS), that has been historically used to track the loans, went out of business in 2018,
21 and with the exception of six (6) of the businesses that received loans from Fulton
22 County, the loan recipients have been dissolved by the Georgia Secretary of State; and

1 **WHEREAS**, there are currently six active businesses, owing approximately
2 \$191,000 in funding, with whom Fulton County could negotiate settlement amounts to
3 repay their outstanding balances in reduced amounts; and

4 **WHEREAS**, the Department of Community Development has reached out to
5 HUD for technical assistance on how best to proceed with the Fulton County BILP to
6 lessen or eliminate any possible adverse action from HUD regarding the BILP; and

7 **WHEREAS**, in furtherance of these efforts, Fulton County retained a consultant
8 to develop a policy, incorporated hereto as Attachment “B”, that that will guide Fulton
9 County in a process for handling settlement offers from the loan recipients, and will
10 eventually provide for the orderly dissolution of the BILP; and

11 **WHEREAS**, HUD has reviewed and approved this process for handling
12 settlement offers from the loan recipients; and

13 **WHEREAS**, approval of this new process will allow the Department of
14 Community Development to pursue reasonable collection efforts for the remaining loan
15 balances, discharge debt that is uncollectable according to the approved policy, and
16 dissolve the BILP program by December 31, 2021, to mitigate any adverse actions from
17 HUD;

18 **WHEREAS**, the Board of Commissioners further finds that it is in the best
19 interest of Fulton County to authorize the Department of Community Development to
20 utilize the policy approved by HUD in order to pursue collection of the outstanding loan
21 balances, negotiate settlements, and the orderly closeout of the BILP, in order to ensure
22 that the BILP does not result in adverse action from HUD; and

1 **WHEREAS**, for purposes of efficiency and expediency in Fulton County
2 operations, the Board of Commissioners deems it to be in the best interest of the
3 County to authorize the County Manager or his designee to execute the necessary
4 documents that may be utilized by BILP to pursue collection, accept settlements, and
5 close out the BILP by December 31, 2021.

6 **NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners
7 hereby approves the policy attached hereto as Attachment B, which authorizes the
8 Department of Community Development to pursue collections, accept reasonable
9 settlements within the discretion of the County Manager or his designee, after
10 consultation with the County Attorney, and to orderly closeout the BILP by December
11 31, 2021.

12 **BE IT FURTHER RESOLVED**, that the County Manager or his designee is
13 delegated the authority to authorize, complete, and execute all documents required to
14 administer the BILP, including to pursue collection, accept settlements, and close out
15 the BILP by December 31, 2021.

16 **BE IT FURTHER RESOLVED**, that the County Attorney is hereby authorized to
17 approve all BILP documents as to form, and to make necessary modifications thereto
18 prior to execution by the County Manager or his designee.

19 **BE IT FINALLY RESOLVED**, that this Resolution shall become effective upon its
20 adoption, and that all prior actions inconsistent with this Resolution and parts of
21 resolutions in conflict with this Resolution are hereby repealed to the extent of the
22 conflict.

23 **SO PASSED AND ADOPTED**, this _____ day of _____, 2021.

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7 **FULTON COUNTY BOARD OF**
8 **COMMISSIONERS**
9

10
11
12
13 _____
14 Robert L. Pitts, Chairman
15

16 **ATTEST:**
17
18

19 _____
20 Tonya R. Grier
21 Clerk to the Commission
22
23

24 **APPROVED AS TO FORM:**
25
26

27 _____
28 Kaye W. Burwell
29 Interim County Attorney
30

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