

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 PROGRAM
7 FROM DECEMBER 31, 2023, TO JUNE 30, 2024; AND FOR OTHER PURPOSES.
8

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

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

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

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

25 WHEREAS, a disparity study helps ensure any race-or gender-based remedial
26 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 extensive analysis of data for the study period that was
38 required (i.e., 2018 through 2022), the Disparity Study and resultant recommendations
39 has not yet been completed and additional time is required to for it to be completed; and

40 **WHEREAS**, the results of the Disparity Study and resultant recommendations will
41 require adequate time for review by the Office of the County Attorney and the Department
42 of Purchasing & Contract Compliance; and

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

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

49 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 June 30, 2023.

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

53 ~~If a disparity study is not completed within five years of the 2018 Disparity Study, the~~
54 ~~nondiscrimination policy set forth hereinabove shall sunset on December 31, 2023.~~

55 ~~(Ord. No. 19-0854, Exh. A, 11-20-19)~~

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 County
61 Georgia this 6th day of December, 2023.

62 **FULTON COUNTY BOARD**
63 **OF COMMISSIONERS**
64

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