

1 A RESOLUTION BY THE FULTON COUNTY BOARD OF COMMISSIONERS
2 APPROVING A FORM TEMPORARY RIGHT OF ENTRY AGREEMENT AND
3 RELATED DOCUMENTS FOR PUBLIC WORKS STAFF OR CONTRACTORS TO
4 ENTER ONTO PRIVATE PROPERTY TO DETERMINE THE COMPOSITION OF
5 WATER SERVICE LINES PURSUANT TO FEDERAL REGULATIONS 40 C.F.R.
6 141.84; DELEGATING AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF
7 PUBLIC WORKS TO EXECUTE THE TEMPORARY RIGHT OF ENTRY AGREEMENT
8 AND RELATED DOCUMENTS; REQUIRING THE DIRECTOR OF THE DEPARTMENT
9 OF PUBLIC WORKS TO SPREAD SUCH EXECUTED DOCUMENTS ON THE
10 MEETING MINUTES OF THE BOARD OF COMMISSIONERS ON A QUARTERLY
11 BASIS; AND FOR OTHER PURPOSES.

12 WHEREAS, Fulton County considers the health and well-being of its residents as
13 its highest priority; and

14 WHEREAS, water service lines in municipalities, counties, and states across the
15 United States were constructed using lead pipes, which continue to be used in the
16 distribution of water; and

17 WHEREAS, the Environmental Protection Agency has determined that the use of
18 lead pipes for drinking water is unsafe in that the water travelling through the pipes may
19 be affected by the lead resulting in detrimental effects on the health and well-being of
20 those who consume it; and

21 WHEREAS, as a result, the federal government has promulgated regulations,
22 currently found at 40 C.F.R. 141.84, requiring that entities operating water systems, such
23 as Fulton County, take steps to remove lead pipes from its water system; and

24 WHEREAS, as an initial step in complying with the federal regulations and
25 removing any lead pipes in its water service area, Fulton County is required to compile
26 an initial inventory of the composition of its water service lines by October 16, 2024, which
27 will be made available to the public online and will be resubmitted annually to the
28 Environmental Protection Division of the State of Georgia; and

29 WHEREAS, the Department of Public Works has begun planning the best process
30 for removing any lead pipes identified, but the specific means for going about that process

1 will depend in part on the results of the inventory of the water service line composition;
2 and

3 **WHEREAS**, the Department of Public Works in conjunction with the Office of the
4 County Attorney has created a Temporary Right of Entry Agreement, in substantially the
5 form attached hereto as Exhibit “A”; and

6 **WHEREAS**, once executed by the authorized Fulton County representative and a
7 Fulton County private property owner, the Temporary Right of Entry Agreement will permit
8 Fulton County Public Works employees or Fulton County approved contractors to enter
9 onto private property in Fulton County to conduct tests to determine the composition of
10 the water line servicing the property so as to allow Fulton County to create the inventory
11 required by federal regulations; and

12 **WHEREAS**, the Board of Commissioners has previously granted the Director of
13 Public Works the authority to execute agreements, including development agreements
14 necessary for Fulton County’s ownership, operation and maintenance of proposed
15 potable water distribution systems, which was granted through Resolution No. 14-0331
16 and codified in Article II, Chapter 82, Section 82-77 of the Fulton County Code of
17 Ordinances; and

18 **WHEREAS**, it is the recommendation of the Department of Public Works that the
19 Director of Public Works is also given the authority to execute temporary right of entry
20 agreements in substantially the form attached hereto as Exhibit “A” between the property
21 owners in Fulton County so as to begin the process of Fulton County complying with 40
22 C.F.R. 141.84; and

23 **WHEREAS**, the Board of Commissioners finds that delegating to the Director of
24 Public Works the authority to execute the Temporary Right of Entry Agreement will best
25 serve the County’s interest in preserving Fulton County resources, avoiding delay, and
26 complying with federal law; and

27 **WHEREAS**, pursuant to Article 9, Section 2, Paragraph 1(a) of the Georgia
28 Constitution, the Board of Commissioners has the “power to adopt clearly reasonable. . .

1 resolutions . . . relating to its . . . affairs . . . for which no provision has been made by
2 general law and which is not inconsistent with [the] Constitution or any local law applicable
3 thereto.”

4 **NOW, THEREFORE, BE IT RESOLVED**, that the Fulton County Board of
5 Commissioners approves the Temporary Right of Entry Agreement in substantially the
6 form attached hereto as Exhibit “A” to permit Fulton County Public Works employees or
7 Fulton County approved contractors to enter onto private property in Fulton County to
8 conduct tests to determine the composition of the water line servicing the property so as
9 to allow the County to create the inventory required by federal regulations.

10 **BE IT FURTHER RESOLVED**, that Fulton County Board of Commissioners hereby
11 authorizes and delegates to the Director of the Department of Public Works with the
12 authority to execute the Temporary Right of Entry Agreement, in substantially the form
13 attached hereto as Exhibit “A” on behalf of Fulton County for the purpose of conducting
14 testing of water service line material.

15 **BE IT FURTHER RESOLVED**, that the Director of Public Works is required to
16 spread the executed Temporary Right of Entry Agreement on the meeting minutes of the
17 Board of Commissioners on a quarterly basis.

18 **BE IT FURTHER RESOLVED**, that prior to execution the County Attorney shall
19 approve the documents as to form and make any necessary changes thereto to protect
20 the County’s interests.

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

24
25 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
26 Georgia, this _____ day of _____, 2024.

FULTON COUNTY BOARD OF COMMISSIONERS

Robert L. Pitts, Chairman (At Large)

ATTEST:

Tonya R. Grier, Clerk to the Commission

APPROVED AS TO FORM:

Y. Soo Jo, County Attorney