

1 **A RESOLUTION AMENDING ARTICLE 2, DIVISION 2, SUBPART B OF THE FULTON**
2 **COUNTY CODE OF RESOLUTIONS, TO AMEND SUBSECTION 118- 50 REGARDING**
3 **MEMBERSHIP AND QUALIFICATIONS OF THE BOARD OF DIRECTORS OF THE**
4 **DEVELOPMENT AUTHORITY OF FULTON COUNTY; AND FOR OTHER PURPOSES.**
5

6 **WHEREAS**, the Fulton County Board of Commissioners has authority, pursuant to
7 the Constitution of the State of Georgia, Article 9, Sec. 2 ¶ 1(a), to adopt reasonable
8 ordinances, resolutions, or regulations relating to its affairs for which no provision has
9 been made by general law and which is not inconsistent with this Constitution or any local
10 law applicable thereto; and

11 **WHEREAS**, pursuant to the authority granted by the Development Authorities Law
12 (O.C.G.A. § 36-62-1 et seq.), the Board of Commissioners, on May 16, 1973, adopted a
13 Resolution declaring the need for a Development Authority in Fulton County ("Activating
14 Resolution") and did thereby establish the Development Authority of Fulton County for
15 the purpose of developing and promoting welfare, trade, commerce, industry and
16 employment opportunities in Fulton County, among other purposes; and

17 **WHEREAS**, the May 16, 1973 Activating Resolution set forth that the Development
18 Authority of Fulton County's Board of Directors shall consist of seven (7) members, "each
19 of whom shall be taxpayers of Fulton County and none of whom is an officer or employee
20 of said County;" and

21 **WHEREAS**, on April 15, 1992 the General Assembly amended O.C.G.A. § 36- 62-
22 4(a), to change the maximum number of members that shall serve on the Development
23 Authority of Fulton County's Board of Directors to not less than seven (7) and not more
24 than (9); and

25 **WHEREAS**, the activation of Development Authority of Fulton County has been
26 codified in the Fulton County Code of Laws, as Fulton County Code Sections 118-46
27 through 118-49; and

28 **WHEREAS**, Fulton County Code Sections 118-46 through 118-49 did not include
29 a code section pertaining to the composition of the members of Board of Directors as
30 set forth in the Development Authorities Law or the 1973 activating Resolution; and

31 **WHEREAS**, on April 17, 2019, the Board of Commissioners found it necessary to
32 amend the Activating Resolution, as codified in Fulton County Code Sections 118-46
33 through 118-49, to add a new Fulton Code Section regarding membership and
34 composition of the Board of Directors of the Development Authority of Fulton County, to
35 provide that the Development Authority of Fulton County Board of Directors shall: (a)
36 consist of not less than seven and not more than nine directors and specify how the board
37 of commissioners selects the directors; (b) shall be taxpayers residing in Fulton County,
38 as required by O.C.G.A. § § 36-62-4 and 36-62-5; (c) shall not be officers or employees
39 of Fulton County, the Fulton County Board of Education or the Atlanta Board of Education;
40 and (d) designate that two members shall be "at-large" members, with one member
41 representing the Fulton County Board of Education and the other "at-large" member
42 representing the Atlanta Board of Education (the "Amendment").

43 **WHEREAS**, the Fulton County Board of Commissioners desire to allow the Fulton
44 County Board of Education and the Atlanta Board of Education to select their own
45 members; and

46 **WHEREAS**, these members will be subject to approval by the full Fulton County
47 Board of Commissioners; and

48 **WHEREAS**, the Fulton County Board of Commissioners desires to set forth
49 additional parameters on the selection of members by the Atlanta Board of Education
50 and the Fulton County Board of Education.

51 **NOW, THEREFORE, BE IT RESOLVED**, by the Fulton County Board of
52 Commissioners that the Amendment to the Activating Resolution for the Development
53 Authority of Fulton County, as codified in Article 2, Division 2, Subpart B of the Fulton
54 County Code of Resolutions, Fulton County Code Sections 118-46 through 118-49,
55 entitled "Development Authority of Fulton County," is hereby amended by revising
56 subsection 118-50, entitled "Board of Directors, Membership and Qualifications," to
57 provide as follows: (a) The Board of Directors shall consist of a board of not less than
58 seven and not more than nine directors to be appointed by resolution of the Fulton County
59 Board of Commissioners. Each commissioner shall have one appointment which shall be
60 submitted to the full Board of Commissioners for approval. Two additional members shall
61 be a "at-large" members, with one member selected and nominated by the Fulton County
62 Board of Education for final approval by the full Board of Commissioners, and the other
63 representing member selected and nominated by the Atlanta Board of Education for final
64 approval by the full Board of Commissioners; provided, however, that in the event the
65 Fulton County Board of Education or the Atlanta Board of Education approves or has
66 approved any action, resolution, or legislative agenda item or engages in active litigation
67 or provides any funding for litigation against the Development Authority of Fulton County
68 or economic development in general (each an "Anti-DAFC Action"), then any member
69 selected and nominated by the Fulton County Board of Education or the Atlanta Board of
70 Education, as applicable, shall not be considered for appointment by the full Board of

71 Commissioners until such Anti-DAFC Action is rescinded, reversed or otherwise
72 remedied as determined by the Board of Commissioners; and provided further,
73 notwithstanding anything to the contrary contained herein, in the event that (i) the Fulton
74 County Board of Education or the Atlanta Board of Education fails to rescind, reverse, or
75 otherwise remedy any Anti-DAFC Action for a period of two (2) months or longer; or (ii)
76 the Fulton County Board of Education or the Atlanta Board of Education conducts any
77 such Anti-DAFC Action after the full Board of Commissioners has already provided final
78 approval of any member selected and nominated by the Fulton County Board of
79 Education or the Atlanta Board of Education, as applicable, then the Fulton County Board
80 of Education or the Atlanta Board of Education, as applicable, shall no longer make any
81 future nomination or recommendation of a member of the Development Authority of
82 Fulton County; (b) The members of the Board of Directors shall be taxpayers residing in
83 Fulton County; (c) The members of the Board of Directors shall not be officers or
84 employees of Fulton County, as reflected in Exhibit "A," attached hereto and incorporated
85 herein by this reference.

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87
88 **FULTON COUNTY BOARD OF COMMISSIONERS**
89

90 Sponsored by:

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95 _____
96 Marvin S. Arrington, Jr.,
97 Commissioner, District 5
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102 ATTEST:

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Tonya R. Grier, Clerk to the Commission

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111 APPROVED AS TO FORM:

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Kaye Woodard Burwell, Interim County Attorney

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118 P:\CALegislation\BOC\Resolutions\2021 Resolutions\Arrington\5.5.21.Proposed Amendment to FCC 118-50.Development Authority
119 (revised).clean version.docx

EXHIBIT A

Sec. 118-50 - Board of Directors, Membership and Qualification

(a) The Board of Directors shall consist of a board of not less than seven and not more than nine directors to be appointed by resolution of the Fulton County Board of Commissioners. Each commissioner shall have one appointment which shall be submitted to the full Board of Commissioners for approval. Two additional members shall be a "at-large" members, with one member ~~representing~~ selected and nominated by the Fulton County Board of Education for final approval by the full Board of Commissioners, and the other ~~representing~~ member selected and nominated by the Atlanta Board of Education for final approval by the full Board of Commissioners; provided, however, that in the event the Fulton County Board of Education or the Atlanta Board of Education approves or has approved any action, resolution, or legislative agenda item or engages in active litigation or provides any funding for litigation against the Development Authority of Fulton County or economic development in general (each an "Anti-DAFC Action"), then any member selected and nominated by the Fulton County Board of Education or the Atlanta Board of Education, as applicable, shall not be considered for appointment by the full Board of Commissioners until such Anti-DAFC Action is rescinded, reversed or otherwise remedied as determined by the Board of Commissioners; and provided further, notwithstanding anything to the contrary contained herein, in the event that:

(i) the Fulton County Board of Education or the Atlanta Board of Education fails to rescind, reverse, or otherwise remedy any Anti-DAFC Action for a period of two (2) months or longer; or

(ii) the Fulton County Board of Education or the Atlanta Board of Education conducts any such Anti-DAFC Action after the full Board of Commissioners has already provided final approval of any member selected and nominated by the Fulton County Board of Education or the Atlanta Board of Education, as applicable, then the Fulton County Board of Education or the Atlanta Board of Education, as applicable, shall no longer make any future nomination or recommendation of a member of the Development Authority of Fulton County;

(b) The members of the Board of Directors shall be taxpayers residing in Fulton County.

(c) The members of the Board of Directors shall not be officers or employees of Fulton County, ~~the Fulton County Board of Education or the Atlanta Board of Education.~~