

1 **A RESOLUTION REQUIRING CONTRACTS OR OTHER WRITTEN AGREEMENTS TO**
2 **ACCOMPANY AGENDA ITEMS APPEARING ON THE MEETING AGENDA OF THE**
3 **BOARD OF COMMISSIONERS TO UPHOLD TRANSPARENCY IN GOVERNANCE;**
4 **PROVIDING EXCEPTIONS FOR THOSE CONTRACTS OR AGREEMENTS**
5 **PROCESSED BY THE DEPARTMENT OF PURCHASING AND CONTRACT**
6 **COMPLIANCE AND FOR THOSE EXCLUDED UNDER THE GEORGIA OPEN**
7 **MEETINGS ACT, OR FOR EMERGENCY SITUATIONS; AND FOR OTHER**
8 **PURPOSES.**

9
10 **WHEREAS**, Fulton County is required to consider and enter into a wide variety of
11 contracts or other written agreements in the normal course of its operation, including
12 personal service contracts, intergovernmental agreements, memoranda of
13 understanding, memoranda of agreement, and others, on a variety of subjects, including
14 public works, real estate, asset management, purchasing, and others; and

15 **WHEREAS**, pursuant to Fulton County Code (“FCC”) § 101-66(a), the Board of
16 Commissioners holds meetings twice a month and the agenda for each meeting is
17 prepared by the Clerk to the Commission, in concert with the County Manager, and the
18 deadline for the submission of items for inclusion being 10:00 a.m. on the Friday prior to
19 a meeting; and

20 **WHEREAS**, pursuant to FCC § 101-66(a), a final copy of the agenda is distributed
21 to Commissioners, County Attorney, County Manager, appropriate staff, and the public
22 on 2:00 p.m. on the Friday preceding the scheduled meeting of the Board of
23 Commissioners; and

24 **WHEREAS**, there have been repeated instances of contracts and other written
25 agreements not being included with the agenda distributed to the public and
26 Commissioners on the Friday before Board meetings; and

27 **WHEREAS**, if a contract or agreement does not accompany or otherwise is not
28 included with the agenda item, their contents remain unavailable to the public, who may

1 desire to comment on the items, and to the members of the Board of Commissioners,
2 who must vote on the items; and

3 **WHEREAS**, when Purchasing and Contract Compliance presents an item on the
4 agenda, the agenda item summary contains pertinent information related to the contract
5 or other written agreement, including, but not limited to, the procurement methodology
6 utilized, the name of the proposed other contracting party, the term of the agreement, a
7 summary of the goods or services to be provided to the County, and the compensation to
8 be paid by the County under the contract or other written agreement; and

9 **WHEREAS**, a draft version of the contract or agreement is also included with each
10 purchasing solicitation issued by the Department of Purchasing and Contract Compliance
11 and all solicitations are available for review by the Board of Commissioners and the
12 general public as well as potentially interested vendors; and

13 **WHEREAS**, notwithstanding the above, the Board of Commissioners recognizes
14 that many of the purchasing contracts or agreements processed by the Department of
15 Purchasing and Contract Compliance on behalf of the County are draft agreements that
16 can only be finalized after the Board of Commissioners approves the County entering into
17 a contract or written agreement with another party and, therefore, cannot be included with
18 a published agenda; and

19 **WHEREAS**, the Board of Commissioners believes the interests of the citizens of
20 Fulton County are best served by upholding transparency regarding the nature of
21 proposed contracts or written agreements and by allowing the public to be aware of the
22 contents and terms of those contracts or agreements; and

1 **WHEREAS**, the Board of Commissioners finds that its citizens and members are
2 best served by requiring that all contracts or other written agreements, unless exempted,
3 must accompany the agenda items appearing on published agenda; and

4 **WHEREAS**, pursuant to the County’s home rule powers found in the Constitution
5 of the State of Georgia, Art. 9, § 2 ¶ 1(a), the Board of Commissioners is authorized to
6 adopt reasonable ordinances, resolutions, or regulations relating to the County’s affairs
7 for which no provision has been made by general law and which is not inconsistent with
8 the Constitution or any local law applicable thereto.

9 **NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners hereby
10 orders and directs that, except in the limited circumstances described below, all contracts
11 or other written agreements to be voted on or considered by the Board of Commissioners
12 at a scheduled meeting must accompany the agenda item and must appear on the
13 published agenda.

14 **BE IT FURTHER RESOLVED**, that the contract or other written agreement must
15 be provided to the Clerk’s office and/or County Manager’s office by 10 a.m. on the Friday
16 before the Board meeting at which it is to be considered so that the document will be
17 available for review with the published agenda.

18 **BE IT FURTHER RESOLVED**, that if a contract or other written agreement is not
19 included or provided timely, the agenda item cannot appear on the published agenda,
20 and must be removed by the Clerk to the Commission.

21 **BE IT FURTHER RESOLVED**, that the requirements of this Resolution shall not
22 apply in situations where a contract or agreement (i) cannot be provided because of an
23 emergency, as determined by a supermajority of the Board of Commissioners pursuant

1 to Fulton County Code § 101-66(b)(2), (ii) is exempt from public disclosure pursuant to
2 the Georgia Open Meetings Act, O.C.G.A. § 50-14-1, *et seq.*, or other legal authority, or
3 (iii) is a contract or agreement processed by the Department of Purchasing and Contract
4 Compliance.

5 **BE IT FURTHER RESOLVED**, that where a contract is not available to appear on
6 the published agenda due to an emergency circumstance, the Clerk to the Commission
7 shall ensure that the contract is made available to the public by placing the contract on
8 the published agenda at the next available meeting of the Board of Commissioners for
9 spreading on the meeting minutes; provided, however, that a fully executed contract may
10 also be provided to the public on request.

11 **BE IT FURTHER RESOLVED**, that nothing herein shall prevent the Clerk to the
12 Commission or a Department, where a contract is not presented on the published agenda
13 due to an emergency circumstance, from sharing an unexecuted draft of the contract with
14 a member of the Board of Commissioners upon request.

15 **BE IT FINALLY RESOLVED**, that this Resolution will take effect upon its adoption
16 and all resolutions and parts of resolutions in conflict with this Resolution are hereby
17 repealed to the extent of such conflict.

18 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
19 Georgia this 16th day of August, 2023.

20 **FULTON COUNTY**
21 **BOARD OF COMMISSIONERS**

22 **Sponsored by:**

23
24 _____
25 Bridget Thorne, Commissioner (District 1)
26

1 **ATTEST:**

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6 Tonya R. Grier, Clerk to the Commission

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APPROVED AS TO FORM:

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12 _____
Y. Soo Jo, County Attorney