RESOLUTION OF THEFAYETTEVILLE PUBLIC WORKS COMMISSION APPROVING PROCUREMENT POLICY, ECONOMIC IMPACT PROGRAM, SMALL LOCAL SUPPLIER PROGRAM, AND PROCUREMENT DOCUMENT REVISIONS FOLLOWING SESSION LAW 2026-41

WHEREAS, the Fayetteville Public Works Commission ("PWC") is authorized to establish procurement policies, procedures, and administrative programs necessary for the efficient acquisition of goods, services, and construction in accordance with applicable law; and

WHEREAS, PWC previously reviewed and updated its supplier participation programs and, effective December 2025, implemented an Economic Impact Program that includes the Small and Disadvantaged Business Enterprise ("SDBE") Program and Small Local Supplier ("SLS") Program and established the Economic Impact Program Manager position; and

WHEREAS, Session Law 2026-41 repealed certain statutory provisions relating to the State Historically Underutilized Business ("HUB") Program and related participation requirements; and

WHEREAS, the Legal Department has conducted a comprehensive review of PWC's policies, procedures, forms, bid documents, procurement templates, Economic Impact Program, SDBE Program, SLS Program, and related contracting documents to evaluate the impact of Session Law 2026-41 and to identify revisions necessary to maintain compliance with applicable law while preserving lawful supplier outreach and local economic development initiatives; and

WHEREAS, the Legal Department determined that PWC's current Economic Impact Program and Small Local Supplier Program may continue to operate provided that such programs remain race-neutral, do not establish mandatory participation goals, bid preferences, award preferences, responsiveness requirements, evaluation criteria, or responsibility determinations based upon business classifications or certifications except where expressly required by federal law or funding conditions; and

WHEREAS, the Board finds that continued supplier outreach, vendor education, small business engagement, and local supplier participation efforts promote competition, increase awareness of procurement opportunities, support economic development within PWC's service area, and serve legitimate business and operational purposes; and

WHEREAS, the Board further finds that it is in the best interest of PWC to revise and update its procurement policies, procedures, forms, solicitation templates, and related administrative documents to reflect current law and to ensure consistency throughout PWC's procurement program.

NOW THEREFORE, BE RESOLVED BY THE COMMISSIONERS OF THE FAYETTEVILLE PUBLIC WORKS COMMISSION THAT:

Section 1. Findings. The foregoing recitals are incorporated herein as findings of the Board and are adopted as if fully set forth herein.

Section 2. Approval of Legal Department Recommendations. The Board hereby accepts and approves the recommendations contained in the Legal Department Report entitled "Comprehensive Review and Redline Analysis of PWC Policies, Procedures, Forms, and Contracting Documents Following Session Law 2026-41."

Section 3. Continuation of Economic Impact Program. The Board hereby affirms and authorizes the continued operation of PWC's Economic Impact Program as a race-neutral supplier outreach and economic development initiative designed to promote awareness of procurement opportunities and encourage participation by qualified businesses.

Section 4. Continuation of Economic Impact Program Manager. The Board hereby affirms the continued use of the title Economic Impact Program Manager and authorizes the continued administration of supplier outreach, vendor education, local supplier engagement, supplier registration assistance, economic impact reporting, and related program activities consistent with this Resolution.

Section 5. Continuation and Expansion of Small Local Supplier Program. The Board hereby affirms the continued operation of the Small Local Supplier Program and authorizes management to revise and administer the program as a race-neutral supplier outreach initiative intended to encourage awareness and participation by qualified local businesses.

The Board further directs that participation in the Small Local Supplier Program shall not constitute:

a. a bid preference;

b. an award preference;

c. an evaluation factor;

d. a responsiveness requirement;

e. a responsibility determination criterion;

f. a procurement set-aside; or

g. any other procurement advantage,

except where expressly authorized or required by applicable federal law or funding conditions.

Section 6. Economic Impact Disclosure Form. The Board hereby authorizes the continued use of the Economic Impact Disclosure Form and directs that such form include language clarifying that information collected through the form is intended solely for supplier outreach, economic impact reporting, data collection, program administration, and related

purposes and shall not be used as an award criterion except where required by federal law or funding requirements.

Section 7. Procurement Policy and Document Revisions. The Board directs management, Procurement, and the Legal Department to revise and update, as necessary:

a. Board policies;

b. administrative policies;

c. procurement procedures;

d. procurement manuals;

e. bid and proposal templates;

f. construction solicitation documents;

g. purchase solicitation documents;

h. standard contract forms;

i. supplier registration materials;

j. program plans; and

k. related procurement documents

to remove references to repealed HUB statutory requirements and to incorporate the recommendations approved by this Resolution.

Section 8. Elimination of Obsolete HUB and MWDBE Requirements. To the extent any remaining provisions exist within PWC policies, procedures, forms, templates, or related documents, the Board authorizes removal of requirements relating to:

a. HUB participation goals;

b. HUB affidavits;

c. HUB good-faith effort requirements;

d. MWDBE participation goals;

e. MWDBE utilization requirements;

f. HUB reporting requirements; and

g. similar program requirements rendered obsolete by Session Law 2026-41.

Section 9. Business Certifications. The Board authorizes continued recognition of SDBE, DBE, SBA, HUBZone, WOSB, SDVOSB, 8(a), and similar certifications for supplier outreach, informational, reporting, and program administration purposes.

Such certifications shall not constitute a bid preference, award preference, evaluation criterion, responsiveness requirement, or responsibility determination factor unless expressly required by applicable federal law, grant conditions, loan requirements, or other funding obligations.

Section 10. Federal Funding Requirements. Nothing contained in this Resolution shall be interpreted to modify, limit, or eliminate any requirement imposed as a condition of federal funding, grants, loans, cooperative agreements, or other federally funded programs.

PWC shall continue to comply with all applicable federal DBE, MBE, WBE, disadvantaged business, Supplier Diversity, Uniform Guidance, or similar requirements whenever required by the applicable funding source.

Section 11. Administrative Authority. The Chief Executive Officer/General Manager, Procurement Department, and Legal Department are authorized to make such administrative revisions and updates to procurement documents, forms, procedures, manuals, websites, outreach materials, and related documents as may be reasonably necessary to implement this Resolution, provided that such revisions do not materially alter Board policy without further Board approval.

Section 12. Effective Date. This Resolution shall become effective immediately upon adoption.

ADOPTED this 12th day of August, 2026.

FAYETTEVILLE PUBLIC WORKS COMMISSION

Richard W. King, Chairman

ATTEST:

Donald L. Porter, Secretary