

## ORDINANCE NO. 24-2005

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING THE PROVISIONS OF PURCHASING ORDINANCE 04-2001 TO ADJUST THE INFORMAL PURCHASE THRESHOLD AND TO ADJUST CITY MANAGER APPROVAL AUTHORITY FOR PROFESSIONAL AND CONTRACTUAL SERVICES

THE CITY COUNCIL OF THE CITY OF ELK GROVE DOES ORDAIN AS  
FOLLOWS:

Section 1: Purpose:

The purpose of this chapter is to maximize the purchasing value of public funds in procurement and to provide safeguards for maintaining a procurement system of quality and integrity.

Section 2: Application:

Except as otherwise provided in this chapter, this chapter applies to contracts for the procurement of supplies and services, entered into by the City. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with the law.

Section 3: Purchase of less than twenty thousand dollars may be informal: Where the amount, or value is less than twenty thousand dollars, the purchase or disposal may be made by the Purchasing Officer without written bid and by informal price checking through telephone, or mail inquiry, comparison of prices on file or otherwise.

Section 4: Purchase of twenty thousand dollars or more – Not greater than one hundred thousand dollars – Made by City Manager through competitive bid: Where the amount, or value involved, is at least twenty thousand dollars, the purchase, or disposal, shall be made by the City Manager through competitive bid, upon notice as required by Section 19 of Ordinance 04-2001.

Section 5: Purchase of one hundred thousand dollars or more made by competitive bid: Where the amount, or value involved, is over one hundred thousand dollars, the purchase, or disposal, shall be made by the City Council through competitive bid, upon notice, as required by Section 19 of Ordinance 04-2001, provided, however, the City Council may elect to make any purchase in

any amount (except as the laws of the state otherwise require) in the following cases:

- A. With approval of City Council, upon a determination that competitive bids, upon notice would not be likely to result in a lower price to the City from a responsible bidder, or would cause unnecessary expense or delay under the circumstances;
- B. By approval of the City Council that said purchase may be made through a governmental entity, as provided in Section 18 of Ordinance 04-2001, upon a determination that competitive bids upon notice would not be likely to result in a lower price to the City from a responsible bidder, or would cause unnecessary expenses or delay under the circumstances;
- C. By approval of the City Council that the immediate preservation of the public peace, health or safety requires said purchase to be made without competitive bids, upon notice;
- D. By approval of the City Council that there is only one source for the required supply or service based on a review of available sources by the Purchasing Officer and written recommendation therefore.
- E. By approval of the City Council that it is in the City's best interests to suspend competitive bidding.

Section 6: Emergency Purchasing Authority:

- A. In an emergency requiring the immediate preservation of the public peace, health and safety, and precluding action by the City Council:
  - 1. The Purchasing Officer may purchase supplies or services up to twenty thousand dollars (\$20,000) without competitive bids.
  - 2. The City Manager may purchase supplies or services up to one hundred thousand dollars (\$100,000), without competitive bids, upon notice.
- B. At the next succeeding City Council meeting, the Purchasing Officer and/or City Manager shall submit to the City Council a written statement of the circumstances of such emergency, a description of the supplies or services purchased, and the prices thereof.

Section 7: Consultants:

- A. The City Council finds and declares that in conformance with Government Code Section 37103 and case law, that the competitive bid process is ill suited for highly and technically skilled consultants who are needed for professional or technical expertise and for matters requiring specialized abilities or a high degree of skill.
- B. The City Manager or designated representative shall be empowered to engage a consultant (including, but not limited to, material testing service, construction inspection services, architectural, engineering, testing, land surveying, appraising, environmental, planning, financial, legal, development processing, governmental operations, special studies, construction project management and other services related thereto) without the necessity of competitive bid or notice hereof:
  - 1. Without City Council approval if the consultant's total fee for services and materials under the contract by which the consultant is engaged does not exceed one hundred thousand dollars; and funds have been appropriated for said purpose.

Section 8: Request for sealed proposals: The Purchasing Officer shall be empowered to utilize the notice inviting proposals for purchase of supplies or services upon the following conditions:

- A. With City Manager approval if the amount, or value, involved is more than twenty thousand dollars, but less than one hundred thousand dollars; or
- B. With City Council approval if the amount or value, involved is more than one hundred thousand dollars.

Section 9: Notice: For purchases in excess of one hundred thousand dollars, notice shall be given as required in Section 19 of Ordinance 04-2001.

Section 10: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 11: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 12: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).


**PASSED AND ADOPTED** by the City Council of the City of Elk Grove on the 13<sup>th</sup> day of July 2005.

  
DANIEL BRIGGS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
PEGGY E. JACKSON  
City Clerk

APPROVED AS TO FORM:

  
ANTHONY B. MANZANETTI,  
City Attorney

**Effective Date: August 13, 2005**

**AYES: Scherman, Soares, Leary, Briggs**  
**NOES: None**  
**Abstain: None**  
**Absent: Cooper**