

ORDINANCE NO. 9-2008

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING ORDINANCE 6-2007 AND ADOPTING CHAPTER 3.42 “CONTRACTS
AND PURCHASING”**

The City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose and Authority

The purposes of this chapter is to define the types of contracts regulated by chapter 3.42 to provide for the authority of City officers to enter into certain contracts, and to set forth the procedural requirements for the various types of contracts.

Section 2: Application

Ordinance No 6-2007 is hereby repealed and the following Chapter 3.42 of the Elk Grove Municipal Code is hereby adopted to read as follows:

Chapter 3.42 CONTRACTS AND PURCHASING

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Article 1. General

3.42.010 Purpose.

The purposes of this chapter are to define the types of contracts regulated by this chapter, provide for the authority of City officers to enter into certain contracts, and to set forth the procedural requirements for the various types of contracts. All purchases and contracts for contracted services, commodities, equipment and other personal property required by any department or other organizational unit of the City shall be made on behalf of the City in accordance with this chapter, except as otherwise provided by State law. However, a purchase or contract may be initiated only if sufficient funds have been appropriated and for which there is an unexpended and unencumbered remaining balance sufficient to pay for the purchase or contract. This purchasing system implements California Government Code sections 54201--54205.

3.42.020 Types of contracts.

The contracts regulated by this chapter are:

- (A) Contracts for consultant or professional services; and
- (B) Contracts for the purchase of commodities, equipment and general services, including maintenance contracts on same.

3.42.030 Definitions.

For the purposes of this chapter, the following definitions shall apply:

- (A) "Amendment" or "change order," means change, or modification, or addendum to a contract after it has been executed.
- (B) Reserved.
- (C) (1) "Commodities" means any tangible goods or items such as supplies, parts and materials. Generally, they are consumable in City operations, become part or a component of City equipment or City facilities and/or have a useful life of one year or less.

(2) "Consultant or professional services" means the services of an architect, attorney, landscape architect, engineer, doctor, financial consultant, planning or environmental consultant, investment advisor, banking and trustee services, or other similar professional services as defined in California Government Code section 37103, as may be amended from time to time.

(3) "Contract" means any agreement to do or not do a certain thing.

“Contract” and “agreement” are synonymous. The term “contract” includes, among other things, a purchase order, a contract for services, and an addendum or change order.

(4) “Cost”, when used in this chapter, shall mean the amount charged, exclusive of sales tax, use tax, delivery charges, shipping and/or handling, and which will be incurred on a fiscal year basis. Where a contract is for multiple years, each year shall meet the cost limitation set forth herein.

(D). Reserved.

(E) “Equipment” means tangible personal property with a useful life of more than one year. It may be mobile, portable or fixed; and is an independent functioning unit, as opposed to parts which are components. Examples include, but are not limited to, office equipment, furniture, field equipment, shop, lab, and plant equipment, vehicles and rolling stock.

(F) Reserved.

(G) (1) “General services” includes:

(a) Any work performed or services rendered by an independent contractor, with or without the furnishing of materials, excluding any work defined as a “public project” under Public Contract Code section 20161 and including, but not limited to, the following:

(i) Maintenance or nonstructural repair of City buildings, structures or improvements which does not require engineering plans, specifications or design, including, but not limited to, unscheduled replacement of broken window panes, fire extinguisher maintenance, minor roof repairs, plumbing, electrical, mechanical, elevator maintenance, custodial services, and pest control,

(ii) Installation, repair, modification, and maintenance of City equipment,

(iii) Cleaning, analysis, testing, moving, removal or disposal (other than by sale) of City supplies, equipment, and waste products,

(iv) Providing other technical services to facilitate City operations such as communications, transportation, utilities,

(v) Performing repair, demolition or other work required to abate nuisances under this Code;

(b) Leasing or rental of equipment (personal property) for use by the City;

(c) A maintenance agreement for equipment owned or leased by the City. "General services" does not include work defined as a public project under the Public Contract Code or services that are established as professional services by City Council resolution.

(H). Reserved.

(I). Reserved.

(J). Reserved.

(K) Reserved.

(L) (1) "Local vendor" means a person or legal entity which has a place of business (other than a post office box) within the City and has a valid, current business license issued by the City. To qualify as a local vendor for the purposes of section 3.42.230, the vendor shall submit with its bid a completed City-provided affidavit that documents the following: the business has a facility with a City of Elk Grove address, the business will attribute any sales tax from the sale to the City of Elk Grove, and the business has had a City of Elk Grove business license for at least one year prior to the opening of the bid.

(M) Reserved.

(N) Reserved.

(O) Reserved.

(P) (1) "Post-consumer recycled material" means material and by-products which have served their intended end use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(2) "Public project" shall have the same definition as contained in Public Contract Code section 20161 as may be amended from time to time

(Q) Reserved.

(R) (1) "Recycled material" means material and by-products that have been recovered or diverted from solid waste and that can be utilized in

place of raw or virgin material in manufacturing a product. It is derived from post-consumer recycled material, manufacturing waste, industrial scrap, agricultural waste, and other waste material, but does not include material or by-products generated from, and commonly reused within, an original manufacturing process.

(2) "Recycled product" means material and by-products which have served their intended end use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(S) Reserved.

(T) Reserved.

(U) Reserved.

(V) Reserved.

(W) Reserved.

(X) Reserved.

(Y) Reserved.

(Z) Reserved.

3.42.040 Insurance and indemnification; City Attorney and budget approval; execution.

Except for a contract for a public project, as defined herein, before a contract is signed by any City representative, or placed on a City Council agenda, the contract must: (1) include appropriate insurance and indemnification provisions reviewed by the City's risk management officer or City Attorney; (2) be approved as to form by the City Attorney; (3) be approved as to budget availability and purchasing procedural compliance by the Finance Director or Budget Officer; and (4) be signed by the other party (except in the instance of a public entity, in which instance it may be signed by the City representative first).

3.42.050 Encumbrance of contracts.

Each contract entered into under this chapter and requiring the payment of City funds, after execution, will be entered into the City financial system by an encumbrance against the appropriate budgeted funds.

3.42.060 Filing with City Clerk.

A signed original of each contract entered into under this chapter shall be filed

with the City Clerk's office, except for transactions involving the purchase of commodities, equipment or general services documented with a purchase order, which is filed with the Finance Department. Contracts shall be retained in accordance with the City Council adopted retention schedule.

3.42.070 Voidability.

Any transaction failing to comply with this chapter in any respect is voidable at the discretion of the City Council.

3.42.075 Splitting orders prohibited.

It is unlawful to split into smaller orders the purchase of commodities, equipment or general services for the purpose of evading the competitive bidding provisions of this article.

Article 2. Contract Authority

3.42.080 City Council authority.

City Council approval is required for each contract regulated by this chapter unless authority to sign the contract is granted to another City officer under this Article 2. Such authority shall be exercised consistent with this Chapter 3.42.

3.42.090 City Manager Authority.

(A) The City Manager is authorized to enter into and sign on behalf of the City, without the prior approval of the City Council, a contract:

(1) Which contains an initial maximum compensation figure of up to Fifty Thousand and no/100ths (\$50,000.00) Dollars or less. As to a change order, the limit of authority may not exceed ten (10%) percent of the original contract amount not to exceed a cumulative total of Fifty-Five Thousand and no/100ths (\$55,000.00) Dollars. Cumulative additional change orders exceeding Fifty-Five Thousand and no/100ths (\$55,000.00) Dollars must be approved by the City Council;

(2) Which is not required by any applicable State law to be let to the lowest bidder;

(3) Right of entry onto real property agreements.

(B) In an emergency endangering the lives, property or welfare of the people of the City or the property of the City, the City Manager may authorize the expenditure of any unencumbered moneys, notwithstanding the fact that such moneys may not have been appropriated for such purpose, to the extent that other moneys have not been appropriated or are otherwise unavailable.

- (C) The City Manager shall report, in writing, every exercise of the purchasing authority granted by this ordinance at a City Council meeting within thirty (30) days of exercise of the authority, or the next City Council meeting if such meeting does not occur within thirty (30) days.

3.42.100 Department head authority.

Department heads are authorized to enter into and sign on behalf of the City, without the prior approval of the City Manager or City Council, a contract that meets all of the following criteria:

- (A) Which is for the purchase or lease of commodities, equipment, general services, and professional services;
- (B) Which contains a maximum compensation amount up to Twenty-Five Thousand and no/100ths (\$25,000.00) Dollars. As to a change order, the limit of authority is twenty-five (25%) percent of the original contract, not to exceed a cumulative amount of Thirty-One Thousand Two Hundred Fifty and no/100ths (\$31,250.00) Dollars; and
- (C) Which is not required by any State law to be let to the lowest responsible bidder.

Article 3. Consultant and Professional Services

3.42.110 Authority; definition.

The City Manager and the department heads are each authorized to enter into a contract for consultant or professional services in accordance with the limits on their authority in Article 2 of this Chapter. "Consultant or professional services" is defined in section 3.42.030(C).

3.42.120 Procurement of services with a value of less than \$25,000.

For procurement of services with a value of less than Twenty-Five Thousand and no/100ths (\$25,000.00) Dollars, the procurement procedures shall be established by an administrative regulation of the City Manager.

3.42.130 Procurement of services with a value from \$25,000.01 up to \$50,000.

- (A) Informal request for proposal (RFP) procedure. The procurement of services with a value from Twenty-Five Thousand and 01/100ths (\$25,000.01) Dollars up to Fifty Thousand and no/100ths (\$50,000.00) Dollars shall be made following the procedure prescribed below:

(1) Solicitation of proposals. The department may solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall, whenever possible and practicable, be based on at least three proposals and shall be awarded to the best qualified and most responsible proposer. The dollar amount of the

proposal shall be considered but the award need not be made to the lowest dollar proposal.

(2) Retention of proposal. The department shall retain all proposals in accordance with the City Council approved retention schedule.

(3) Award of contracts. The City Manager is authorized to award a contract in accordance with the authorization granted in Section 3.42.100.

- (B) Exceptions. The request for informal proposal procedure may be dispensed with in an emergency or when the City Manager in his/her best judgment makes a written finding that compliance with these procedures is not in the best interest of the City.

3.42.140 Procurement of services with a value of \$50,000.01 or more.

- (A) Formal request for proposal (RFP) procedures. The City shall procure services with a value of Fifty Thousand and 01/100ths (\$50,000.01) Dollars or more following the procedure prescribed below:

(1) Request for proposals. The request for proposal (RFP) shall include a general description of the services to be procured, shall include a proposed professional services agreement, and the time and place for submission of proposals. A notice inviting proposals shall be distributed to at least three (3) consultant firms and shall be posted on the City website at least ten (10) days prior to the deadline for submission of proposals. Proposers shall submit sealed proposals and shall identify them as proposals on the envelope.

(2) Evaluation of proposals. All responsive proposals shall be reviewed and evaluated by the City in order to determine which proposer best meets the City's needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services. The criteria by which the City shall evaluate proposals will be set forth in the request for proposals. The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process.

(3) Award of contract. The City Manager shall award a contract for the services with a value greater than Twenty-Five Thousand and 01/100ths (\$25,000.01) Dollars but less than Fifty Thousand and no/100ths (\$50,000.00) Dollars. The City Council shall award a contract for services with a value equal to, or greater than, Fifty Thousand and no/100ths (\$50,000.00) Dollars.

- (B) Exceptions. Formal requests for proposals under this section may be dispensed with:

(1) In an emergency;

(2) When the services can be obtained from only one source which has been reviewed and approved in writing by the City Manager;

(3) When, in the judgment of the City Manager or City Council, compliance with the procedure is not in the best interest of the City for services between Fifty Thousand and no/100ths (\$50,000.00) Dollars and One Hundred Thousand and no/100ths (\$100,000.00) Dollars;

(4) When processed through a cooperative purchasing agreement with another public agency whose procurement process is consistent with the provisions of this chapter;

(5) Contracts for City-managed professional services in an amount up to One Hundred Thousand and no/100ths (\$100,000.00) Dollars if the following criteria are met: (a) a City Council approved reimbursement agreement exists, (b) an applicant for development entitlements has deposited the full amount of the contract with the City, and (c) the funds are to be used for development related studies, such as an environmental impact report; or

(6) When, in the determination of the City Council, compliance with the procedure is not in the best interest of the City for those professional services, the costs of which exceed One Hundred Thousand and no/100ths (\$100,000.00) Dollars.

Article 4. Purchasing Commodities, Equipment and General Services

3.42.150 Applicability.

This article 4 applies to the purchase of commodities, equipment and general services purchased on behalf of the City except for those supplies or materials governed by the Public Contract Code. The purpose of this article 4 is to establish efficient procedures for the purchase of commodities, equipment and general services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases.

3.42.160 Purchases below \$5,000.

For purchases of less than Five Thousand and no/100ths (\$5,000.00) Dollars, the purchasing procedures shall be established by an administrative regulation of the City Manager.

3.42.170 Purchases from \$5,000.01 up to \$50,000.

(A) Informal open-market procedure. The purchase of commodities, equipment and general services from Five Thousand and 01/100ths

(\$5,000.01) Dollars up to Fifty Thousand and no/100ths (\$50,000.00) Dollars may be made in the open market, following the procedure prescribed below:

(1) Minimum number of quotations. Open-market purchases shall, whenever possible and practicable, be based on at least three (3) quotations and shall be awarded to the lowest responsible quotation.

(2) Notice inviting quotations. The department making the purchase shall solicit quotations by written (including e-mail) or verbal request to prospective vendors.

(3) Quotations. Quotations shall be submitted in writing (including facsimile and e-mail) to the department, which shall keep a record of all open-market orders and quotes for a period of six (6) months after the submission of quotes or the placing of orders. This record is open for public inspection.

(4) Award of contracts. The department head is authorized to award a contract for Twenty-Five Thousand and no/100ths (\$25,000.00) Dollars or less when the City Council has budgeted funds for the item(s) and the amount of the award is not more than the budgeted amount.

(5) Award of contracts. The City Manager is authorized to award a contract of up to Fifty Thousand and no/100ths (\$50,000.00) Dollars when the City Council has budgeted funds for the item(s) and the amount of the award is not more than the budgeted amount.

(B) Exceptions. The open market procedure may be dispensed with:

(1) In an emergency;

(2) When the goods can be obtained from only one source which has been reviewed and approved in writing by the City Manager;

(3) When, in the judgment of the City Manager, compliance with the procedure is not in the best interest of the City;

(4) When processed through a cooperative purchasing agreement with another public agency whose procurement process is consistent with the provisions of this chapter, as set forth in section 3.42.220.

3.42.180 Purchases of \$50,000.01 or more.

(A) Formal contract procedures. The City shall purchase commodities, equipment and general services of a value equal to or greater than \$50,000.01 following the formal bid procedure prescribed below:

- (1) Notice inviting bids. The notice inviting bids shall include a general description of the articles or general services to be purchased, and shall State where bid forms and specifications may be secured and the time and place for opening bids.
- (2) Published notice. The notice inviting bids shall be published at least ten (10) days before the date of the opening of the bids. Notice shall be published at least once in a newspaper of general circulation.
- (3) Bidders' list. The City shall also solicit sealed bids from responsible prospective suppliers whose names are on the bidders' list.
- (4) Bidders' security. When deemed necessary, the City shall require bidders' security. Bidders' security shall be in accordance with the provisions of the California Public Contract Code.
- (5) Bid opening procedure. Bidders shall submit sealed bids to the City Clerk and shall provide the project number or other reference and identify them as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.
- (6) Rejection of bids. At its discretion, the City Council may reject any and all bids presented, and may re-advertise for bids.
- (7) Award of contracts. The City Council shall award a contract for the purchase of commodities or equipment or general services with a value of Fifty Thousand and 01/100ths (\$50,000.01) Dollars or more. A contract shall be awarded to the responsible bidder with the lowest responsive bid, except as otherwise provided here. A contract may be awarded to the next lowest responsible bidder if the successful bidder refuses or fails to execute the contract.
- (8) Tie bids. If two (2) or more bids received are for the same total amount or unit price and quality, service and delivery being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Manager or City Council may accept the one it chooses, or accept the lowest good faith offer by negotiation with the tie bidders.
- (9) Performance bonds. The City has the authority to require a performance bond before entering a contract, in such amount as is reasonably necessary to protect the best interest of the City. If a performance bond is required, the form and amount of the bond shall be described in the notice inviting bids.

(B) Exceptions. Bidding under this section may be dispensed with:

(1) In an emergency; or

(2) When the purchase can be obtained from only one source which has been reviewed and approved in writing by the City Manager; or

(3) When, in the determination of the City Council, compliance with the procedure is not in the best interest of the City for those commodities, equipment or general services the costs of which equal or exceed Fifty Thousand and no/100ths (\$50,000.00) Dollars.

(4) When processed through a cooperative purchasing agreement with another public agency whose procurement process is consistent with the provisions of this chapter.

3.42.200 Equipment leasing.

(A) Leasing of equipment shall be in accordance with the authority limits set forth in article 2, depending upon the annual cost of the lease.

(B) Each contract for the leasing or rental of equipment for the City shall contain a provision permitting the City to terminate the contract at the end of any fiscal year during the term of the contract upon not less than thirty (30) days' written notice to the other party.

3.42.210 Inspection and testing.

The City may inspect supplies, equipment and general services delivered, and determine their conformance with the specifications set forth in the order or contract. A department head has the authority to require chemical and physical tests of samples submitted with bids, and samples of deliveries which are necessary to determine their quality and conformance with specifications.

3.42.220 Cooperative purchasing agreements with other public agencies.

Nothing in this article prohibits the voluntary participation by the City in any cooperative purchasing agreement(s) or programs entered into between the City and the State, County, or other public agencies, including but not limited to California Multiple Award Schedule ("CMAS"), U S Communities, and Houston/Galveston Area Council. The City Manager is authorized to act under the provisions of this article to procure for the City supplies and equipment in conjunction with such voluntary cooperative purchasing agreement(s) or programs as may be entered into by the City. All formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program.

3.42.230 Local vendor preference.

A bid or proposal from a local vendor for commodities, equipment, and general

services will be tabulated as if it were five (5) percent below the figure actually set forth in the bid or proposal to account for the financial advantages accruing to the City by the award of a bid to a local vendor. The City, when seeking bids or proposals for commodities or equipment, will notify bidders or proposers that bids or proposals will be evaluated on the basis of a local preference of five (5) percent of the bid or proposal price.

3.42.240 Use of recycled products.

At the option of the department making the purchase, the bid specifications may include a five (5%) percent price preference to be given to recycled products. If included, the price preference shall be determined based upon the lowest price quoted by suppliers offering recycled products and the maximum amount of the price preference shall not exceed Ten Thousand and no/100ths (\$10,000.00) Dollars per purchase. Persons submitting proposals or bidding to provide products or services to the City shall be notified of the City's preference for the use of recycled products, including the price preference. Bidders shall be asked to identify in writing to the City the types of recycled materials that will be used and to certify in writing the percentage and contents of recycled material and post-consumer recycled material in the product.

Article 5. Public Projects Subject to the Public Contract Code

3.42.250 Prequalification of bidders.

(A) Purpose. This section is enacted pursuant to California Public Contract Code Section 20101, which authorizes the City to establish a system for prequalification of prospective bidders on public works construction projects.

(B) Prequalification of bidders.

(1) The City hereby establishes a system for prequalification of prospective bidders for public works construction projects. The City may use the prequalification system identified in this section for any public works project.

(2) The City Engineer is authorized to adopt and apply a uniform system of rating bidders for each project based on: (1) the requirements of California Public Contract Code Section 20101, and (2) the model guidelines and standardized questionnaire created by the State of California Department of Industrial Relations, as modified at the City Engineer's discretion to address the needs of the particular project, or projects, to which they are to be applied.

(3) (a) Prequalification of prospective bidders shall be conducted for public works projects that involve the construction, retrofitting, remodeling, renovation or expansion of public buildings, water or wastewater treatment facilities, water works, or require significant specialized experience or

expertise, unless the City Engineer determines that it is in the best interests of the City to forgo prequalification of prospective bidders on a particular project. In making his or her determination whether it is in the best interests of the City to forgo prequalification of prospective bidders on a particular project, the City Engineer's decision shall be supported by one or more of the following reasons:

- (i) prequalification of prospective bidders is likely to unreasonably adversely affect the cost of the project,
- (ii) the complexity, scale or cost of the project do not warrant use of this prequalification process,
- (iii) there is an urgent need, based upon concerns for the health and safety of the public, to pursue the project on an expedited basis,
- (iv) the particular project is of such a specialized nature that there is a very limited pool of qualified potential bidders, and for this reason the purposes of the prequalification process may be accomplished by use of a bid questionnaire, or
- (v) the project will not be competitively bid.

(b) Notwithstanding subsection (B)(3)(a) of this section, the City Engineer is authorized to require prequalification of prospective bidders on any public works project or to engage in a program of prequalification of prospective bidders, on public works projects on a recurring basis as provided in California Public Contract Code section 20101.

(4) If prequalification of prospective bidders is required for a particular project, the City Engineer shall determine which bidders are qualified to bid that project based upon the uniform system of rating bidders. If the City Engineer determines any bidder is not qualified to bid a project, the City Engineer shall provide to the bidder written notice that includes the basis for the determination and an identification of any supporting evidence therefor, and an opportunity for the bidder to appeal the determination pursuant to subsection (C) of this section. A copy of all prequalification determinations shall be filed with the City Clerk at least ten (10) days prior to the scheduled bid opening.

(C) Appeals.

(1) Any person aggrieved by a determination made by the City Engineer pursuant to subsection (B)(4) of this section may appeal the determination only by complying with the requirements set forth in this subsection. Such an aggrieved person shall be referred to herein as "appellant." Without a timely appeal, the appellant waives any and all rights to challenge the

decision of the City Engineer, whether by administrative process, judicial process or any other legal process or proceeding.

(2) The appellant shall submit a written notice of appeal to the City Clerk, along with a complete written description of all factual and legal bases for the appeal and accompanied by a fee in the amount established by resolution of the City Council, no later than ten (10) calendar days after the City has mailed written notice of the determination made by the City Engineer. Should the appellant prevail in its appeal, the deposit shall be returned to the appellant and the City shall bear the costs of the appeal. If the appellant does not prevail, the deposit shall be used to pay all costs associated with the appeal. If the deposit is insufficient to pay the entirety of the costs of the appeal, the appellant shall pay the remaining costs within thirty (30) calendar days after the decision. Any failure by the appellant to timely pay any outstanding appeal costs, as required herein, shall be considered by the City in future prequalification proceedings.

(3) If the appellant gives the required notice of appeal, provides the necessary deposit and requests a hearing, the hearing shall be conducted so that it is concluded no later than five (5) business days prior to the last date for the receipt of bids on the project or twenty (20) calendar days following City's receipt of the notice of appeal, whichever is sooner. The hearing shall be an informal process conducted by an arbitrator, who shall be an attorney experienced in public works and construction matters. The arbitrator may be selected by the mutual consent of the appellant and the City. If an agreement cannot be reached regarding the selection of the arbitrator, the appellant and the City shall each exchange a list of three arbitrators they would be willing to accept. In turn, beginning with the appellant, each party shall strike one name from the other party's list until only one name remains and that remaining person shall be the arbitrator. If the arbitrator selected is unavailable, the parties shall repeat the process until they succeed in selecting an available arbitrator.

(4) At the hearing, the appellant and the City shall each be provided an opportunity to be represented by legal counsel and to present or rebut any evidence bearing upon the issues presented in the appeal. Each party shall bear his, her, its, or their own attorneys' fees, regardless of the outcome of the appeal.

(5) The arbitrator shall consider relevant evidence presented during the hearing and provide a written decision on the appeal to the City, with a copy to the City Clerk, and the appellant within one business day after the close of the hearing. The time identified in this section for providing the arbitrator's decision may be extended only by consent of the City and the appellant and such an extension shall not affect or require a delay in a scheduled time for opening of bids for any public works project. Failure by

the arbitrator to render a timely decision shall be deemed a denial of the appeal.

(6) The arbitrator's decision shall be final.

Article 6. Acquisition and Disposition of Interests in Real Property

3.42.280 Leases of real property.

(A) City-owned real property. The City Council shall be the authorizing authority for all leases and licenses of City-owned property. If consideration for the lease is in excess of one dollar per year, the property shall be leased by means of competitive proposals unless the City Council finds that an award by competitive proposals is not in the best interests of the City.

(B) City lease of private property:

(1) Leases with a term of greater than one year and an annual lease payment of Twenty-Five Thousand and 01/100ths (\$25,000.01) Dollars or more shall be authorized by Council.

(2) Leases with a term of less than one year and/or an annual lease payment of less than Twenty-Five Thousand and no/100ths (\$25,000.00) Dollars may be authorized by the City Manager.

3.42.290 Acquisition of real property.

The acquisition of real property, whether by negotiation, dedication, or eminent domain, shall be in accordance with State law. The limits set forth in article 2 of this chapter shall apply to acquisitions of real property.

3.42.300 Disposition of real property.

(A) Procedures for the disposition of real property shall be in accordance with State law. In accordance with California Government Code section 65402(a), the Council hereby determines that the provisions of that section shall not apply to:

(1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes;

(2) acquisitions, dispositions, or abandonments for street widening; or

(3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening or alignment projects are of a minor nature.

(B) The report of the planning commission regarding the conformance of a capital improvement project with the general plan made pursuant to California Government Code section 65401 shall also constitute the report required by California Government Code section 65402(a) regarding each acquisition or

disposition of real estate, street abandonment or vacation, or public building or structure included in that capital improvement project.

(C) The disposition of real property shall be by competitive proposals unless the City Council, by resolution, determines other procedures are in the best interests of the City.

Article 7. Surplus Commodities and Equipment

3.42.310 Surplus commodities and equipment.

(A) Each department shall submit to the Finance Director, at such times and in such forms as the Finance Director prescribes, reports showing all commodities and equipment which are no longer used or which have become obsolete or worn out. The Finance Director has the authority to sell or otherwise dispose of all commodities and equipment which cannot be used by any department or which have become unsuitable for City use, or to exchange the same for or trade the same in on new commodities and equipment. The Finance Director also has the authority to make transfers between departments of any useable surplus commodities or equipment.

(B) Disposition may include abandonment, destruction or donation to public bodies, charitable, civic or non-profit organizations and may include City property which has no commercial value or for which the estimated cost of continued care, handling, maintenance or storage would exceed the estimated proceeds of sale. Sales procedures may include negotiated sales, acceptance of sealed bids or public auction. Services of a paid auctioneer may be used, as appropriate.

(C) The City Manager shall approve the disposition of commodities and/or equipment when the total estimated value is less than Two Thousand and no/100ths (\$2,000.00) Dollars; however, City Council approval is needed if the value is equal to or exceeds Two Thousand and no/100ths (\$2,000.00) Dollars.

(D) (1) Except for surplus police canines, no officer, agent or employee of the City assigned to the purchasing function or responsible for surplus property declarations shall either directly or indirectly submit a bid for or purchase unneeded surplus personal property.

(2) Whenever a police canine is removed from active service except for illness, viciousness, or some similar situation, the dog will be offered to the handler for the sum of One and no/100^{ths} (\$1.00) Dollar. Upon such disposition, the new owner shall sign a waiver of legal liability, releasing the City of Elk Grove, the City of Elk Grove Police Department, and departmental personnel from all liability or responsibility for anything which concerns the animal from that day forward. The new owner receiving the dog must, as a condition of his/her receipt of the dog, immediately relicense the dog in the new owner's name at their expense. The City shall provide all pedigree papers to the new owner receiving the canine.

Section 4: 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.

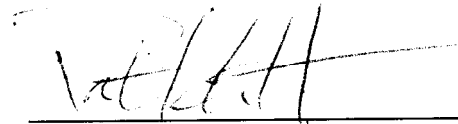
Section 5: Severability.

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 6: 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 Government Code section 36933(c) (1).

INTRODUCED: March 26, 2008
ADOPTED: April 9, 2008
EFFECTIVE: May 9, 2008



PATRICK HUME, VICE MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON,
ASSISTANT CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: April 17, 2008

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 9-2008

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Susan J. Blackston, Assistant City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on March 26, 2008 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on April 9, 2008 by the following vote:

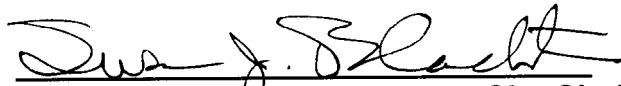
AYES : **COUNCILMEMBERS:** *Hume, Scherman, Cooper*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *Davis, Leary*

A summary of the ordinance was published pursuant to GC 36933(c) (1).



Susan J. Blackston, Assistant City Clerk
City of Elk Grove, California