



**CITY OF ELK GROVE  
CITY COUNCIL STAFF REPORT**

**AGENDA TITLE:** Consider a resolution authorizing the City Manager to amend the Contracts and Purchasing Administrative Regulation No. 1500-005 to include restrictions on expanded polystyrene purchases at City Facilities and receive information on a proposed Green Seal Program

**MEETING DATE:** June 10, 2020

**PREPARED BY:** Heather L. Neff, Recycling & Waste Manager  
Christian Punsal, Recycling Coordinator I

**DEPARTMENT HEAD:** Robert Murdoch, P.E., Public Works Director/  
City Engineer

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**RECOMMENDED ACTION:**

Staff recommends that the City Council receive information and adopt a resolution authorizing the City Manager to amend the Contracts and Purchasing Administrative Regulation No. 1500-005 to include restrictions on expanded polystyrene purchases at City facilities. Staff further recommends that the Council receive information from staff on a proposed Green Seal Program and provide direction as appropriate.

**BACKGROUND INFORMATION:**

Expanded polystyrene (EPS), commonly known by the brand name Styrofoam, is a petroleum-based plastic that has been found to have negative effects on the environment. Food service products made from EPS are a major source of litter and marine pollution that frequently clogs storm drains and waterways throughout the region. Furthermore, as a non-biodegradable plastic, EPS will continue to persist in the environment for hundreds to thousands of years if not managed properly.

At the February 26, 2020 City Council Meeting, the City Council requested staff to draft a policy restricting the use of EPS at City-operated facilities and to create a "Green Seal" program to recognize local businesses that voluntarily refrain from purchasing and using EPS food service containers.

## **ANALYSIS/DISCUSSION:**

In an effort to address concerns expressed by members of the public related to the use of EPS, staff reviewed and identified various environmental elements from 14 municipalities in the state. Examples of policy and environmental elements include typical EPS materials that are banned from city facilities, enforcement procedures, and the design of internal communications that provide staff with information and alternatives for recycling and responsible waste management.

The proposed policy restricting the use of EPS at city facilities is included as Attachment 2. The proposed policy would prohibit the City from purchasing and/or acquiring any EPS food service products including, but not limited to cups, plates, bowls, trays, and containers.

With respect to the Green Seal Program, the research performed by staff identified two existing programs that recognize businesses for their sustainability efforts, including reducing EPS usage. These include:

1. Green Business Program from the California Green Business Network. This is a statewide program and organization that public agencies and businesses can join. Membership includes access to training, business recruitment resources, marketing materials, window clings and certificates for businesses, a tracking system, and other resources. Membership fees are not listed but other members indicated that Annual fees are approximately \$10,000. Businesses that receive recognition under this program are listed in an online database of “green” businesses.
2. Sustainable Business Certification Program from the Sacramento Business Environmental Resource Center (BERC). This is a regional program that provides recognition and assistance to businesses in the Sacramento Region that have taken steps to operate more sustainably. Certification can be achieved through a variety of changes in addition to eliminating EPS, such as water conservation, energy conservation, transportation/air quality improvements, and pollution prevention. Benefits of receiving certification include:
  - Free assistance in making changes to achieve certification;
  - Advertising and promotion;
  - Recognition in the agency’s newsletter, the annual awards ceremony, and the online directory of businesses; and
  - A window placard indicating they are a certified sustainable business.

There are currently 13 Elk Grove businesses that have received this certification and are listed in the online directory.

Because there are existing green business programs in place, staff believes it is important to evaluate whether an additional program would enhance or compete with the existing options. One of the primary advantages to businesses in receiving a green certification is to attract customers looking to do business with eco-conscious companies. Companies can market themselves as a green business and the window placards and online directories may drive additional foot traffic. From that perspective, it makes sense to direct customers to a single online directory and to create familiarity with a single, recognizable window seal/placard.

For the reasons stated above, it is recommended that staff promote the existing BERC program rather than create a separate, competing green business recognition program. The BERC program is well-established and there is no cost to the City or to businesses to participate. Staff time used to create, promote, and monitor a new green business program could instead be used to assist local businesses in achieving certification from the BERC program. City staff often provides direct technical assistance to local businesses with their compliance efforts; these existing efforts can easily incorporate the assistance needed to achieve certification.

### **ALTERNATIVE ACTIONS:**

#### **EPS Restrictions**

An alternative action would be to not adopt the proposed resolution.

#### **Green Seal Program**

An alternative to the recommended action would be to direct staff to continue to develop an Elk Grove-specific program. This action is not recommended because there would be higher costs involved including staff time, development of a logo and marketing materials, and advertising and outreach efforts.

### **FISCAL IMPACT:**

The impacts to the General Fund from the recommended action are anticipated to be negligible.

### **ATTACHMENTS:**

1. Resolution banning EPS at City facilities
  - a. Exhibit A: Administrative Policy 1500-005 (with sample changes)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACTS AND  
PURCHASING ADMINISTRATIVE REGULATION NO. 1500-005 TO INCLUDE  
RESTRICTIONS ON EXPANDED POLYSTYRENE PURCHASES AT ALL CITY  
FACILITIES**

**WHEREAS**, the City of Elk Grove seeks to protect the natural environment for present and future generations; and

**WHEREAS**, expanded polystyrene (“EPS”), which is commonly referred to by its trademark name “Styrofoam” is a petroleum-based plastic that has been found to have increasingly negative effects on the environment; and

**WHEREAS**, food service products made from EPS are a major source of litter and marine pollution, and frequently clogs storm drains and waterways throughout the region; and

**WHEREAS**, as a non-biodegradable plastic, EPS can persist in the environment for hundreds to thousands of years if not managed properly.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Elk Grove hereby authorizes the City Manager to amend the Contracts and Purchasing Administrative Regulation No. 1500-005, in substantially the form set forth at Exhibit A attached hereto, to include restrictions on EPS purchases at all City facilities.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 10<sup>th</sup> day of June 2020

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STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

\_\_\_\_\_  
JONATHAN P. HOBBS,  
CITY ATTORNEY



# City of Elk Grove Contracts and Purchasing Administrative Regulation

No. 1500-005

**Date:** Nov. 22, 2013

**Revised:** ~~June 12,~~  
~~2018~~ June 10, 2020

**Department:** Finance &  
Administrative Services  
**Division:** Purchasing

**Authority:** City Manager

This Administrative Regulation is declarative of existing City policy, is issued under the authority vested in the City Manager, and shall remain in place unless and until rescinded or superseded.

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Jason Behrmann, **Interim** City  
Manager

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## PURPOSE

To establish a policy for the procurement of Consultant and Professional Services with a value of less than \$25,000, Commodities and Equipment with a value of \$5,000 or less, and General Services with a value of \$5,000 or less.

## SCOPE

This policy covers all City Departments that have a need to procure Consultant and Professional Services, Commodities and Equipment, and General Services. This policy is implemented pursuant to, and is to be interpreted consistent with, Elk Grove Municipal Code, Chapter 3.42 Contracts and Purchasing. (See EGMC §§ 3.41.120, 3.42.160 and 3.42.184 for implementing authority).

## DEFINITIONS

The following definitions are those as contained in EGMC Chapter 3.42. To the extent that there is a conflict between the definitions set forth below and those set forth in EGMC Chapter 3.42, as currently drafted or hereafter amended, the definitions in Chapter 3.42 shall control.

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 (1) year or less.
2. **Consultant and Professional Services** – 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 Section 37103 of the California Government Code, as may be amended from time to time.
3. **Cost** – Shall mean the amount charged, inclusive of sales tax, use tax, delivery charges, shipping and/or handling.
4. **Equipment** – Means tangible personal property with a useful life of more than one (1) 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, filed equipment, shop, lab, and plant equipment, vehicles and rolling stock.
5. **General Services includes:**
  - A. Any work performed or services rendered by an independent contractor, not otherwise qualifying as consultant or professional services, with or without the furnishing of associated commodities, equipment or materials, and excluding any work defined as a “public project” under Section 20161 of the Public Contract Code and including. Examples of general services include, but are 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 property and 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, software services or equipment;
  - V. Performing repair, demolition or other work required to abate nuisances under this code;
  - VI. Leasing or rental of equipment (personal property) for use by the City
6. **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 EGMC Section [3.42.230](#), the vendor shall submit with its bid a completed City-provided affidavit that documents the following: (1) the business has a facility with a City of Elk Grove address, (2) the business has, during at least one (1) year immediately preceding the submission of the bid or proposal, attributed sales tax to the City of Elk Grove, and (3) the business has had a City of Elk Grove business license for at least one (1) year prior to the submission of the bid..

## **ASSIGNMENT OF RESPONSIBILITY**

1. City Manager – The City Manager has responsibility to approve this policy.
2. Department Heads – Subject to the provisions of EGMC Chapter 3.42 and this policy, 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/or professional services; and
  - B. Which contains a maximum compensation amount up to Twenty-Five Thousand and no/100th (\$25,000.00) Dollars. As to a change order or contract amendment, the limit of authority is not to exceed a cumulative amount of Thirty-One Thousand Two Hundred Fifty and no/100th (\$31,250.00) Dollars; and
  - C. Which is not required by any State law to be let to the lowest responsible bidder.

## **CONSULTANT AND PROFESSIONAL SERVICES**

### **AUTHORIZATION**

Department Heads are authorized to engage a consultant for professional services without the necessity of solicitation of proposals if the consultant's total fee for services and materials under the contract by which the consultant is engaged does not exceed \$25,000; and funds have been appropriated for said purpose.

Each contract must be accompanied by a purchase requisition entered into the City's financial system to create an encumbrance against the appropriate budgeted funds.

## **METHOD OF SOLICITATION**

### Verbal or Written Proposals.

The Department Head may, but is not required to, solicit proposals by verbal or written request to prospective consultants. If solicited, informal requests for proposals shall, whenever feasible, be based on at least three (3) proposals and shall be awarded to the best-qualified and most responsible proposer, which may not necessarily be the lowest priced proposal. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal.

If proposals are solicited, at least three proposals should be sought and documented. If three proposals are not possible or practical, the reason should be documented. Under no circumstances are services to be split so that the total value of the services falls under the amount of the individual's delegated authority level or to avoid the need for formal competitive bids and notices.

## **COMMODITIES AND EQUIPMENT**

### **AUTHORIZATION**

For purchases of Commodities and Equipment of \$5,000.00 or less, the authority to award is the Department Head. All departments may purchase commodities and equipment provided that an unencumbered appropriation for the item exists in the current approved budget.

Each purchase must be entered into the City's financial system by an encumbrance against the appropriate budgeted funds.

### **METHOD OF SOLICITATION**

#### Purchases of \$3,000 or less

A supplier may be selected directly without solicitation of other quotes or bids to provide commodities and equipment where the expenditure is \$3,000.00 or less. Under no circumstances are orders to be split so that the total value of the order falls under the amount of the individual's delegated authority level or to avoid the need for verbal quotations. Where the quality of commodities and equipment are equal, and it is in the City's best interest to do so, preference should be given to local suppliers as a stimulus for economic development. Prudent judgment shall be used at all times.

#### Purchase between \$3,000.01 and \$5,000.00 - Verbal Quotations

The purchase of commodities and equipment from Three Thousand and 01/100ths Dollars (\$3,000.01) to Five Thousand and no/100ths Dollars (\$5,000.00) or less may be made in the open market. Open-market purchases shall, whenever feasible, be based on at least three (3) bids or quotations and shall be awarded to the person or entity providing the lowest responsible quotation. The department making the purchase may solicit bids or quotations by verbal or written request to prospective vendors.



If three quotations are not possible or practical, the reason should be documented. Under no circumstances are orders to be split so that the total value of the order falls under the amount of the individual's delegated authority level or to avoid the need for written quotations. Whenever possible, quotations should be sought from local suppliers and preference given to local suppliers as noted in City Ordinance 21-2013, Chapter 3.42.230: Local vendor preference.

## **GENERAL SERVICES**

### **AUTHORIZATION**

For purchases of General Services of \$5,000.00 or less, the authority to award is the Department Head. All departments may purchase general services provided that an unencumbered appropriation for the item exists in the current approved budget.

Each purchase must be entered into the City's financial system by an encumbrance against the appropriate budgeted funds.

### **METHOD OF SOLICITATION**

#### Purchases of \$3,000 or less

A provider may be selected directly, and without solicitation of proposals, to provide general services where the expenditure is \$3,000.00 or less. Under no circumstances are orders to be split so that the total value of the order falls under the amount of the individual's delegated authority level or to avoid the need for verbal quotations. Where the quality of services are equal, and it is in the City's best interest to do so, preference should be given to local providers as a stimulus for economic development. .

#### Purchase between \$3,000.01 and \$5,000.00 - Verbal Quotations

Except as set forth below, the procurement of general services with a value from Three Thousand and 01/100ths (\$3,000.01) Dollars up to Five Thousand and no/100ths (\$5,000.00) Dollars shall be made by informal request for proposal. The department may solicit proposals by verbal or written request to prospective service providers. Informal requests for proposals shall, whenever feasible, be based on at least three (3) proposals, and award shall be based on which proposer best meets the City's needs, need not necessarily be based on the lowest priced proposal, but shall be based on a determination of which services offered serve the best interest of the City. The criteria by which the City shall evaluate proposals shall be set forth in the solicitation, and may include a ranking system identifying factors considered important by the City.

If three proposals are not possible or practical, the reason shall be documented. Under no circumstances are orders to be split so that the total value of the order falls under the amount of the individual's delegated authority level or to avoid the need for written quotations. Whenever possible, proposals should be sought from local providers and preference given to local providers as noted in City Ordinance 21-2013, Chapter 3.42.230: Local vendor preference.

## LOCAL VENDOR PREFERENCE

### LOCAL VENDOR PREFERENCE

In the context of commodities and equipment, and general services, a local preference acts as a price discounter for these contracts and purchases by deducting the specified amount from a quote, bid, or proposal received from a “local vendor”. When awarding purchase orders and contracts for commodities and equipment, and general services for \$5,000.00 or less preference should be given to local providers as outlined in City Ordinance No. 21-2013 Chapter 3.42.230:

#### **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 percent (5%) below the figure actually set forth in the bid or proposal, up to a maximum preference of Fifty Thousand Dollars (\$50,000.00) per 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 percent (5%) of the bid or proposal price.*

## ENVIRONMENTALLY PREFERABLE PURCHASING AND PRACTICES

Environmentally preferable purchasing protects human health and environmental well-being by reducing the procurement of goods and services that result in larger volumes of waste and pollutants.

The City of Elk Grove shall not prospectively purchase, acquire or use food service products that are produced with expanded polystyrene (“EPS”), which is commonly known by its trademark name “Styrofoam” at City facilities. All food service products purchased for use at City Facilities shall be reusable, recyclable, or compostable.

Prohibited products include, but are not limited to EPS food service items such as cups, plates, bowls, trays, and containers.