

ORDINANCE NO. 03-2020

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE CHAPTER 3.42 (CONTRACTS AND
PURCHASING) RELATED TO THE DEFINITIONS OF GENERAL SERVICES AND
PUBLIC PROJECT**

WHEREAS, Elk Grove Municipal Code (EGMC) Chapter 3.42 defines the types of contracts regulated by that Chapter and grants authority to City officials to enter into certain contracts, setting forth the procedural requirements for the various types of contracts; and

WHEREAS, EGMC Section 3.42.030, Definitions, references Public Contract Code section 20161 (which contains the state's general definition of public project) in the definitions of "general services" and "public project;" and

WHEREAS, in light of the City's implementation of the state's Uniform Public Construction Cost Accounting Act (UPCCAA), it is appropriate that the EGMC be amended and updated to align with UPCCAA's definition of public projects.

NOW, THEREFORE, the City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose

The purpose of this ordinance is to amend EGMC Section 3.42.030 Contracts and Purchasing titled Definitions.

Section 2: Amend Elk Grove Municipal Code Section 3.42.030 titled Definitions

*(All additions are shown as **bold text**, deletions in ~~strikethrough~~)*

Elk Grove Municipal Code Section 3.42.030 is hereby amended to read:

3.42.030 Definitions.

...

G.1. "General services" includes:

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~~**22002** of the Public Contract Code. Examples of general services include, but are not limited to, the following:

...

P.2. "Public project" shall have the same definition as contained in Section ~~20161~~**22002** of the Public Contract Code as may be amended from time to time.

...

Section 3: California Environmental Quality Act (CEQA)

CEQA requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Section 15061(b)(3) of the CEQA Guidelines sets forth the Common Sense Exemption to CEQA review, stating that CEQA only applies to projects which "have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The code amendments made by this ordinance are for sake of administrative code maintenance and consistency. The amendments do not result in the approval of any particular physical project or change to the environment. Therefore, the adoption of this ordinance is exempt from CEQA review under the Common Sense Exemption.

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: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 7: Effective Date and Publication

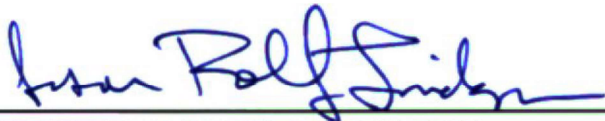
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: **03-2020**
INTRODUCED: February 26, 2020
ADOPTED: March 11, 2020
EFFECTIVE: April 10, 2020



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: March 17, 2020

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 03-2020**

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

I, Jason Lindgren, 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 February 26, 2020 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on March 11, 2020 by the following vote:

AYES: **COUNCILMEMBERS:** ***Ly, Detrick, Hume, Nguyen, Suen***
NOES: **COUNCILMEMBERS:** ***None***
ABSTAIN: **COUNCILMEMBERS:** ***None***
ABSENT: **COUNCILMEMBERS:** ***None***

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



**Jason Lindgren, City Clerk
City of Elk Grove, California**