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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 12.08 OF THE ORDINANCE CODE FOR EL DORADO COUNTY, CALIFORNIA, REGARDING ROAD ENCROACHMENTS**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO ORDAINS AS FOLLOWS:**

Section 1. Section 12.08.155 of the El Dorado County Ordinance Code entitled "Road improvement/encroachment agreements" is hereby amended as follows:

Sec. 12.08.155. - Road improvement/encroachment agreements.

- A. The Director of Transportation, or his or her designee, may sign and approve on the Board's behalf encroachment permits for improvements that are located within any portion of the right-of-way of any County highway. The improvements constructed under an encroachment permit shall meet the following conditions:
  - 1. The work to be done is in accordance with adopted County design and construction standards.
  - 2. The work to be done is consistent with any applicable County-approved project conditions.
  - 3. The cost of the work to be done is \$250,000.00 or less. All work over \$250,000.00 shall require the execution of a road improvement agreement, consistent with Subsection B below.
- B. The Director of Transportation, or his or her designee, may sign and approve on the Board's behalf road improvement agreements, including any amendments thereto, for the construction of improvements that are located within any portion of the right-of-way of any County highway. The improvements constructed under a road improvement agreement shall meet the following conditions:
  - 1. The work to be done is in accordance with adopted County design and construction standards.
  - 2. The work to be done is consistent with any applicable County-approved project conditions.
  - 3. The work to be done is greater than \$250,000.00 but equal to or less than \$1,000,000.00. The Board shall approve any road improvement agreement for work that is greater than \$1,000,000.00.
  - 4. The party requesting the road improvement agreement provides adequate security in compliance with Sections 12.08.156 and 12.08.157.
- C. The Director of Transportation, or his or her designee, may, on behalf of the County, accept any improvements constructed under an encroachment permit or a road improvement agreement signed by the Director under Subsection B as complete, including recording the notice of completion if applicable. The Director of Transportation may require that, as a condition of the issuance of the encroachment permit or a road improvement agreement for the construction of an improvement located within any portion of the right-of-way of any County highway, the applicant dedicate such improvements as County-owned improvements and accept such improvements at the time of acceptance of the work as complete.
- D. The Department of Transportation may create and modify all encroachment permit and road improvement agreement forms necessary to implement this chapter, subject to approval of County Counsel as to form.

E. This section does not, nor is it intended in any way to alter, modify or supersede any improvement agreement requirements found in Title 120.

Section 2. Section 12.08.156, entitled "Security to guarantee performance of the road improvement agreement," is hereby added to the El Dorado County Ordinance Code as follows:

Sec. 12.08.156. - Security to guarantee performance of the road improvement agreement.

Security to guarantee the performance of the road improvement agreement required by Section 12.08.155(B) shall be as follows:

- A. There shall be security guaranteeing the performance of the road improvement agreement which shall take the form of a corporate surety bond issued by an authorized general surety company in a form approved by the County Counsel; or in lieu of that bond, the applicant may submit a cash deposit to be held by the County, subject to approval by the County Counsel. No alternative securities shall be accepted.
- B. In addition to the security required to guarantee performance of the agreement required by Subsection A of this section, there shall be an additional security required to secure payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment to them for the improvement or improvements required by the road improvement agreement. This security shall take the form of a corporate surety bond issued by an authorized general surety company in a form approved by the County Counsel; or in lieu of that bond, the applicant may submit a cash deposit to be held by the County, subject to approval by the County Counsel. No alternative securities shall be accepted.

Section 3. Section 12.08.157, entitled "Amount of security," is hereby added to the El Dorado County Ordinance Code as follows:

Sec. 12.08.157. - Amount of security.

Security required by Section 12.08.156 shall be in the following amounts:

- A. The security required to guarantee performance of the agreement shall be in an amount equal to the estimated cost of all the improvements to be made under the agreement.
- B. The security required to guarantee payments for labor and materials shall be in an amount equal to the estimated cost of the improvements.

Section 4. Section 12.08.158, entitled "Release of security," is hereby added to the El Dorado County Ordinance Code as follows:

Sec. 12.08.158. - Release of security.

The release of that security required by Section 12.08.156 shall be as follows:

- A. The security guaranteeing performance of the road improvement agreement may be released up to an amount equal to 90 percent of the estimated cost of the improvement upon acceptance of the work. Ten percent of the amount of the security shall be retained by the County for a period of one year following the completion and acceptance of the work by the County as a guarantee against any defective work, labor done, or defective materials furnished.
- B. The security securing the payment to the contractor, subcontractors and to persons furnishing labor, materials or equipment may be released after six months following the completion and acceptance of

the work required. The release shall be limited to an amount not less than the total of all claims on which any action has been filed and notice thereof given in writing to the Board of Supervisors and/or the Department of Transportation, and if no such action has been filed the security may be released in full.

**Section 5. California Environmental Quality Act**

The Board finds that this ordinance is not a project within the meaning of the California Environmental Quality Act ("CEQA") because it is a general policy or procedure within the meaning of Section 15378(b)(2), and, even if it were a project, it would be exempt under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance would have a significant impact on the environment.

**Section 6.** This ordinance shall become effective 30 days following adoption hereof.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the following vote of said Board:

**ATTEST**

**Kim Dawson**

Clerk of the Board of Supervisors

Ayes:

By \_\_\_\_\_

— Deputy Clerk

Noes:

Absent:

\_\_\_\_\_

Chair, Board of Supervisors

**APPROVED AS TO FORM  
DAVID LIVINGSTON  
COUNTY COUNSEL**

By: \_\_\_\_\_

Title: \_\_\_\_\_