

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Adoption of Public Emergency Ordinance No. 887 – Temporarily Increasing the City Manager Purchasing Authority in Response to COVID-19 for 30 Days
<b>DEPARTMENT:</b>	City Manager's Office
<b>PRESENTED BY:</b>	Debbie Tarry, City Manager
<b>ACTION:</b>	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

**PROBLEM/ISSUE STATEMENT:**

The Shoreline Municipal Code (SMC) Chapter 2.50 Purchasing sets limits for when the City Manager may authorize acquisition of materials, supplies, equipment, services, and public works. Above these set amounts, City Council approval is required before acquisition and/or contract execution.

Given the public health emergency facing the nation, the State, and the City of Shoreline, in order to properly respond to the needs of the City of Shoreline and its resident in a timely manner, the City Manger's authority needs to be temporarily increased. Public Emergency Ordinance No. 887 (Attachment A) would provide for this temporary increase in the City Manager's purchasing authority in response to COVID-19 for a period of 30 calendar days.

**RESOURCE/FINANCIAL IMPACT:**

Increasing City Manager authority will potentially result in expenditures that exceed budgetary allocations. The future costs of responding to COVID-19 are unknown at this time due to the evolving conditions. With the Washington State declaration of a health emergency, local COVID-19 response efforts may be eligible for state or federal reimbursement. Until there is a final determination on potential reimbursement, all expenditures will be recorded and tracked and will use existing appropriations.

**RECOMMENDATION**

Staff recommends that the City Council adopt Public Emergency Ordinance No. 887 temporarily increasing the City Manager's purchasing authority in response to COVID-19 for a period of 30 calendar days. As a Public Emergency Ordinance, to be effective, RCW 35A.13.190 requires approval by a majority vote plus one of the whole members of the City Council.

Approved By:            City Manager ***DT***    City Attorney ***J-AT***

## **BACKGROUND**

On January 21, 2020, the first reported case of COVID-19 in Washington State occurred in Snohomish County and on February 28, 2020, Public Health - Seattle and King County (Public Health) announced the first King County and United States death due to COVID-19 in Kirkland, WA. COVID-19 is a respiratory disease that can result in serious illness or death caused by the SARS-CoV-2 virus, a new strain of coronavirus that had not been previously identified in humans, and can easily spread from person to person. The US Centers for Disease Control and Prevention (CDC) identifies the potential public health threat posed by COVID-19, both globally and in the United States, as “very high” and has advised that person-to-person spread of COVID-19 will continue to occur globally, including within the United States, the State of Washington, King County, and the City of Shoreline.

On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared COVID-19 a public health emergency of international concern, and on January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency for COVID-19. On February 29, 2020, Washington State Governor Jay Inslee proclaimed a public health emergency for COVID-19 in Washington State. On March 13, 2020, President Trump proclaimed a nation-wide public health emergency. On March 16, 2020, Governor Inslee and Seattle-King County Public Health issued sweeping restrictions to control community-spread of COVID-19, including closing certain types of businesses and imposing stricter social distancing requirements. Also, on March 16, 2020, the City Council adopted Resolution No. 454 ratifying the City Manager’s March 4, 2020, Local Declaration of Public Health Emergency issued pursuant to SMC Chapter 2.60. The staff report for adoption of this Resolution can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport031620-7d.pdf>.

During and since this time, various cities, counties, and states have declared public health emergencies and the federal government continues to address the situation.

## **DISCUSSION**

SMC 2.60.040(C) Emergency Procurements states that the City Manager may make or authorize others to make emergency procurements of materials, supplies, equipment, or services without complying with the requirements of “this section” when there exists a threat to public health, welfare, or safety or threat to proper performance of essential functions. This provision goes on to require recordkeeping and subsequent reporting to the City Council. However, SMC 2.60.040(C)’s reference to “this section” rather than to this “chapter,” results in uncertainty as to the purchasing authority of the City Manager or designee.

Thus, to not only clarify the City Manager’s authority but also to ensure the City can promptly respond to the needs of the City of Shoreline and its residents during the

COVID-19 public health emergency, staff is proposing increasing the City Manager's authority as follows:

**SMC 2.60.050(A) Materials, Supplies, and Equipment:**

Existing language: The City Manager currently may authorize the acquisition of materials, supplies, or equipment with a cost equal to or less than \$100,000.

Recommendation: Staff recommends that this be increased to \$150,000.

**SMC 2.60.060(B) Public Works Projects:**

Existing language: The City Manager may currently authorize public works projects equal to or less than the \$350,000 threshold provided in RCW 39.04.155.

Recommendation: Staff is not recommending an increase to this amount given the statutory limit.

**SMC 2.60.070(A) Professional and Non-Professional Services:**

Existing language: The City Manager currently may authorize the acquisition of services with a cost equal to or less than \$50,000.

Recommendation: Staff recommends that this be increased to \$100,000.

Any acquisitions in excess of these amounts would require City Council approval.

**RESOURCE/FINANCIAL IMPACT**

Increasing City Manager authority will potentially result in expenditures that exceed budgetary allocations. The future costs of responding to COVID-19 are unknown at this time due to the evolving conditions. With the Washington State declaration of a health emergency, local COVID-19 response efforts may be eligible for state or federal reimbursement. Until there is a final determination on potential reimbursement, all expenditures will be recorded and tracked and will use existing appropriations.

**RECOMMENDATION**

Staff recommends that the City Council adopt Public Emergency Ordinance No. 887 temporarily increasing the City Manager's purchasing authority in response to COVID-19 for a period of 30 calendar days. As a Public Emergency Ordinance, to be effective, RCW 35A.13.190 requires approval by a majority vote plus one of the whole members of the City Council.

## **ATTACHMENTS**

Attachment A – Public Emergency Ordinance No. 887

**ORDINANCE NO. 887**

**A PUBLIC EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, TEMPORARILY INCREASING CITY MANAGER PURCHASING AUTHORITY IN RESPONSE TO THE COVID-19 VIRUS PUBLIC HEALTH; ESTABLISHING AN IMMEDIATE EFFECTIVE DATE AND A DURATION.**

WHEREAS, RCW 35A.13.190 authorizes the City Council to enact a public emergency ordinance that has immediate effect when necessary for the protection of public health, public safety, public property, or public peace; and

WHEREAS, Shoreline Municipal Code (“SMC”) Section 2.50.060 grants the City Manager the authority to take action on behalf of the City of Shoreline (“City”) in the event of an emergency or disaster subject to ratification by the City Council as soon as practicable; and

WHEREAS, in the exercise of such authority, the City Manager did execute a Local Declaration of Public Health Emergency (“Declaration”) related to the COVID-19 virus, dated March 4, 2020; and

WHEREAS, on March 16, 2020, the City Council adopted Resolution No. 454, ratifying the City Manager’s March 4, 2020 Declaration; and

WHEREAS, Resolution No. 454 further authorized any and all acts to be undertaken by City Departments and staff consistent with the Declaration to respond to COVID-19; and

WHEREAS, the Shoreline Municipal Code (SMC), at SMC 2.60.040(C) Emergency Procurements states:

Notwithstanding any other provisions of this chapter, the city manager or their designated agent may make or authorize others to make emergency procurements of materials, supplies, equipment, or services without complying with the requirements of this section when there exists a threat to public health, welfare, or safety or threat to proper performance of essential functions; provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor’s name, the amount and type of the contract, and listing of the item(s) procured under the contract, which shall be reported to the city council at the next subsequent meeting.

WHEREAS, while the Declaration and the City Council’s ratification authorizes necessary measures pursuant to local and state law, SMC 2.60.040(C) incorrectly references the procurement requirements of “this section” rather than of this “chapter,” leaving uncertain the purchasing authority of the City Manager or designee; and

WHEREAS, the City Council desires to clarify this authority and to provide for a temporary increase of such authority;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1. Purchasing Authority.** The City Manager or designee purchasing limits, as set forth in chapter 2.60 SMC, are temporarily amended as follows:

SMC 2.60.050(A) Materials, Supplies, and Equipment: The City Manager may authorize the acquisition of materials, supplies, or equipment with a cost equal to or less than \$150,000.

SMC 2.60.060(B) Public Works Projects: The City Manager's authority shall remain as stated in this SMC provision, with acquisition authority equal to or less than the \$350,000 threshold provided in RCW 39.04.155.

SMC 2.60.070(A) Professional and Non-Professional Services: The City Manager may authorize the acquisition of services with a cost equal to or less than \$100,000.

**Section 2. City Council Authorization.** The acquisition of materials, supplies, equipment, services, and for public works projects in excess of the dollar amounts set forth in Section 1 shall require City Council approval.

**Section 3. Record Management and Report to Council.** A record of each emergency procurement shall be made and shall set forth the supplier or contractor's name, the amount and type of the procurement, and listing of the materials, supplies, equipment, services, or public works procured, which shall be reported to the City Council at its next subsequent meeting, whether that meeting is a regular or special meeting.

**Section 4. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

**Section 5. Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

**Section 6. Public Emergency Ordinance and Effective Date.** The City Council hereby finds and declares that this Ordinance is a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace as stated in Resolution No. 454, and shall take effect and be in full force immediately upon its adoption by a majority vote plus one of the whole members of the Council and that the same is not subject to a referendum (RCW 35A.11.090). The underlying facts necessary to support this emergency declaration are included in

the WHEREAS clauses above, all of which are adopted by reference as findings of fact as if fully set forth herein.

**Section 7. Effective Duration.** The purchasing limits set forth in Section 1 of this Ordinance shall be in effect for a period of thirty (30) calendar days from the date this Ordinance is passed unless extended or terminated sooner by the City Council.

**Section 8. Publication.** A summary of this Ordinance consisting of the title shall be published in the official newspaper.

**PASSED BY THE CITY COUNCIL ON MARCH 23, 2020**

\_\_\_\_\_  
Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jessica Simulcik Smith  
City Clerk

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Margaret King  
City Attorney

Date of Publication: , 2020

Effective Date: , 2020