

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Ordinance No. 446 Revising Purchasing Policies and Amending Chapter 2.60 of the Shoreline Municipal Code
DEPARTMENT:	Finance and City Attorney's Office
PRESENTED BY:	Debbie Tarry, Finance Director Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT:

Chapter 2.60 SMC regulates the procurement of goods and services in conformance with state law and recommended business practices and delegates administrative approval for certain city contracts. Amendments to this chapter are recommended to clarify procedures for acquisition and amendment of service contracts and real estate acquisitions.

FINANCIAL IMPACT:

None.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 446 revising purchasing policies and amending Chapter 2.60 of the Shoreline Municipal Code.

Approved By:

City Manager 

City Attorney 

INTRODUCTION

Several sections of Chapter 2.60, *Purchasing*, need clarification to promote procurement efficiency. Administrative change order authority after Council contract review has been clarified. The requirement for a written contract is revised to authorize the use of purchase orders for small standardized services. The City Manager's existing authority to waive a Request for Proposals in certain circumstances for architect and engineering services is extended to other service contracts.

Finally, real property acquisition procedures include a statement of intent to use eminent domain for property interests necessary to accomplish projects in the adopted capital improvement plan. This expression of intent is often requested by property owners for capital gains roll over and the City avoids real estate excise tax on the transaction

DISCUSSION

SMC 2.60.030 Definitions

SMC 2.60.030 *Definitions*, has been amended to simplify the description of nonprofessional services to include all services that do not meet the definition of professional services, architectural and engineering services, or services required to pay prevailing wages.

SMC 2.60.040 General provision

In order to clarify when council authorization is required for change orders, SMC 2.60.040(D) has been changed to indicate that if Council has authorized an amendment to the scope or amount of a contract, the City Manager has administrative authority for additional change orders up to \$50,000 or to extend the termination date. Further changes in excess of \$50,000 would again require Council action. This is a default rule. Council may expand or limit this administrative authority on a case by case basis when it authorizes a contract amendment.

SMC 2.60.070 Services

SMC 2.60.070 *Services*, has been expanded to allow for administrative approval of a broader range of minor contracts. Specifically, the ordinance authorizes administrative approval for purchases of standard services of \$3,000 or less. These services are characterized by competitive market rates with no individualized instruction or scope of work needed for the vendor. Examples include repair and ordinary maintenance without prevailing wages, title reports, printing, and messenger/process service. This amendment will cut down on paperwork and unnecessary time and delay in cross-department approval of minor contracts. The amendment still requires that those contracts in excess of \$3,000 in a calendar year either need an on-call contract, or an individual project contract.

Currently the adopted purchasing policies allow the City Manager to waive the Request for Proposal (RFP) process for architectural and engineering services when there are specific advantages for the City. This ordinance extends this authority to all services. This is specifically helpful when there is a single provider of a service in the Pacific Northwest, such as summer sports camps, but yet the City is currently required to issue an RFP to comply with the adopted purchasing policies.

SMC 2.60.090 *Real property acquisition*

Typically, the city acquires property through negotiations between staff and the property owner. However, if the property owner refuses to sell or demands an excessive price, the City must seek Council authorization of a condemnation ordinance under state law.

Once the city staff has negotiated a purchase within administrative authority, a real estate excise tax affidavit must be filed to record the property instrument. Excise tax does not have to be paid if the sale occurred under threat of eminent domain. (WAC 458-61A-206.)

In addition to this cost savings to the City, documenting an intent to exercise eminent domain benefits the owner of business and investment property. Proceeds from investment properties acquired by condemnation or threat of condemnation may be reinvested without payment of capital gains tax by the property owner under a tax deferral allowed under the Internal Revenue Code. A recent example of this benefit is the demand by the seller of one of the civic center properties that the Council recite the purchase was under threat of eminent domain in its ratification of the purchase and sale agreement.

The proposed amendment to SMC 2.60.090 authorizes the City Manager to represent that condemnation will be considered, if negotiations are unsuccessful, to accomplish projects that have been approved in the capital improvement plan. This provision documents the claim for exemption from real estate excise tax that would otherwise be paid by the City (1.78 % of gross purchase price). This amendment does not change the fact that Council must authorize the actual filing of eminent domain proceedings through a condemnation ordinance. The statement of intent would only apply to small property acquisitions of \$50,000 or less within the City Manager's Acquisition Authority. Larger purchases would include this intent as part of the Council's ratification of the purchase.

In addition, the City Manager's land acquisition signature authority in this section has been clarified to read "\$10,000 or less" for minor acquisitions, and "\$50,000 or less" for CIP projects. The section currently reads "less than \$10,000," and "less than \$50,000."

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 446 revising purchasing policies and amending Chapter 2.60 of the Shoreline Municipal Code.

ATTACHMENTS

Attachment A: Ordinance 446.

ORDINANCE NO. 446

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, REVISING PURCHASING PROCEDURES AND AMENDING CHAPTER 2.60 OF THE SHORELINE MUNICIPAL CODE

WHEREAS, the City Council adopted an ordinance regulating the procurement of goods and services in conformance with state law and recommended business practices; and

WHEREAS, there is a desire to amend the adopted ordinance to facilitate more effective procurement procedures; and

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

Section 1. Amendment. SMC 2.60.030 *Definitions* is hereby amended to read as follows:

B. "Nonprofessional services" are services that are purchased by the city in which the contractor receives specific instructions and guidance from the city and does not meet the definition of professional services, architectural and engineering services, or ~~public works projects~~ services required to pay prevailing wages. Examples include machine repair, debt collection services, temporary service agencies, credit card services, equipment service agreements, auctioning services, delivery services, inspections, advertising, etc.

Section 2. Amendment. SMC 2.60.040 D. *Amendments and Change Orders* is hereby amended to read as follows:

D. Amendments and Change Orders.

1. Amendments or change orders to contracts, including interlocal agreements, which result in the final contract amount in excess of purchase limits identified in this chapter may be administratively approved if the changes are:

- a. Within the scope of the project or purchase;
- b. Executed in writing;
- c. The amount in excess of the city manager's purchase limits will not exceed \$50,000.

2. Contract amendments that are strictly a change in contract expiration date may be administratively approved.

3. The value of all change orders will be aggregated, and when any single amendment or combination of change orders on the same project or purchase exceeds the limit under subsection (D)(1)(c) of this section the change must be approved by the city council, except:

a. For service contracts to accomplish an ongoing city program rather than a discrete project, the aggregation of administrative change orders shall be recalculated after each contract year; and

b. Where the size of the contract makes it probable that administrative change order authority will be quickly exhausted, the city council may, upon recommendation of the city manager, extend the aggregate limits of subsection (D)(1)(c) of this section upon award of the particular contract.

c. A contract amendment approved by the city council under this subsection 2.60.040 (D)(3) shall allow new administrative amendments or change orders to the amended contract that satisfy the requirements of subsection 2.60.040(D)(1).

Section 3. Amendment. SMC 2.60.070 *Services*, is hereby amended to read as follows:

2.60.070 Services.

A. Purchasing Limitations. Purchase limitations apply to the cost related to the acquisition of services to fill a specific business need. Cost is inclusive of any required sales tax and related expenses.

1. Contracts or task orders under an on-call agreement to purchase services equal to or less than \$50,000 may be executed by the city manager.

2. Contracts to purchase services greater than \$50,000 shall be authorized by the city council.

B. Contract Required. The purchase of services require that the city enter into a contract for that service, with the exception of temporary employment agency services, and standard services with a total cost of \$3,000 or less in a calendar year, such as auto repair, title reports, printing and messenger/process service. Departments are allowed to make these purchases administratively in accordance with procedures adopted and approved by the finance director and city manager.

C. On-Call Service Contracts. On-call service contracts will be procured with the processed identified in subsection D of this section. Individual task orders of on-call service contracts shall not exceed \$50,000.

D. Process.

1. Architectural, Landscape Architectural, and Engineering Services Contracts. Procedures set forth in Chapter 39.80 RCW shall be followed for contracts for architectural and engineering services, as defined in RCW 39.80.020.

a. Roster. Annually the city will publish in advance the anticipated city's requirements for architectural, landscape architectural, and engineering services and its acceptance of statements of qualifications for contractors interested in providing these services.

b. Contracts Less Than \$50,000. Contracts that have an estimated cost of less than \$50,000 can be procured using an informal request for qualification process. This process requires the city representative to develop a written scope of the project and any criteria used to select the service provider and then select a qualified contractor from the city's architectural, landscape architectural, and engineering service roster. If the city representative does not choose to use the appropriate roster, then a formal request for qualification process must be followed.

c. Contracts Greater Than \$50,000. Contracts that have an estimated cost in excess of \$50,000 must use a formal request for qualification (RFQ) process. The development of an RFQ along with the proper public notification shall be made in accordance with procedures adopted by the finance department in the best interest of the city; provided, however, that the city manager may in the following circumstances waive the RFQ process for contracts greater than \$50,000, and allow the acquisition of services from the city's architectural, landscape architectural and engineering services roster:

i. It is deemed in the best interest of the city to expedite the acquisition of services; or

ii. It can be demonstrated that there are sufficient consultants on the roster that possess the required qualifications to perform the scope of work; or

iii. A consultant on the city's roster has previously provided satisfactory service to the city, has previously provided services related to the specific project, and has the qualifications to perform the scope of work.

This process shall be used before any contract which is renewed or extended for an aggregate amount in excess of \$50,000 from the commencement of the contract, whether or not options for additional terms were included in the original contract.

~~d. Contract Required. A contract is required to purchase architectural, landscape architectural, and engineering services.~~

2. Professional and Nonprofessional Services (Excluding Nonarchitectural Architectural, Landscape Architectural, and Engineering Services).

a. Contracts Less Than \$50,000. Contracts that have an estimated cost of less than \$50,000 can be procured using an informal request for proposal process. This process requires the city representative develop a written scope of the project and any criteria used to select the service provider. The city representative will use this information when selecting the contractor to provide the services. Multiple proposals are optional and at the discretion of the department director. If multiple proposals are used to make a selection, a standard process must be used for obtaining all proposals.

b. Contracts in Excess of \$50,000. Service contracts that have an estimated cost in excess of \$50,000 shall be procured using a formal request for proposal (RFP) process. The development of an RFP along with the proper public notification shall be made in accordance with procedures adopted by the finance department in the best interest of the city; provided, however, that the city manager may in the following circumstances waive the RFP process for contracts greater than \$50,000:

i. It is deemed in the best interest of the city to expedite the acquisition of services; or

ii. It can be demonstrated that specialized expertise, experience or skill is needed for a successful outcome and outweighs potentially lower price proposals; or

iii. A consultant has previously provided satisfactory service to the city related to the specific project, and has the qualifications to perform the scope of work.

This process shall be used before any contract which is renewed or extended for an aggregate amount in excess of \$50,000 from the commencement of the contract, whether or not options for additional terms were included in the original contract.

~~e. Contract Required. A contract is required to purchase professional and nonprofessional services.~~

Section 4. Amendment. SMC 2.60.090 *Real property acquisition* is hereby amended to read as follows:

2.60.090 Real property acquisition.

A. Real Property – Manager’s Acquisition Authority. The city manager or his designee is authorized, in the following instances, to accept by gift or acquire dedications, easements, rights-of-way, fee estates or other interests in real property for use by or on behalf of the city or any department of the city by threat of eminent domain.

1. Minor Acquisitions. Any such acquisition where the purchase price is \$10,000 or less.
~~less than \$10,000.~~

2. Approved Projects. Any such acquisition which is part of an approved and funded project included in the city’s capital improvement plan or a local improvement district ordered by the council, the cost of the property is \$50,000 or less ~~less than \$50,000~~ and does not exceed 10 percent of the fair market value of the property as determined by the city’s appraiser or review appraiser. For projects in the city’s capital improvement plan, the city manager is authorized to convey city council’s intent that these projects will be accomplished with the use of eminent domain if necessary.

All other real property acquisitions will be submitted to the council for approval.

B. Real Property – Manager’s Leasing Authority.

1. The city manager or his designee is authorized to execute leases of real property on behalf of the city where the term of the lease does not exceed one year and the consideration does not exceed \$50,000 per year.

2. A lease that exceeds the limits stated in subsection (B)(1) of this section, will be submitted to the council for approval.

Section 5. Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL ON _____, 2007.

Mayor Robert Ransom

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication: Insert Date of Publication
Effective Date: Insert Effective Date