

ORDINANCE NO. 1016**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
AMENDING CHAPTER 2.60 OF THE SHORELINE MUNICIPAL CODE
TO UPDATE PURCHASING PROCEDURES.**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

WHEREAS, Shoreline Municipal Code (SMC) Chapter 2.60 sets forth the purchasing procedures governing the purchase of supplies, materials, equipment, nonprofessional and professional services, public works projects, and real property; and

WHEREAS, in 2010, with the adoption of Ordinance No. 588, while not statutorily required to do so, the City Council established a requiring utilization of apprentices for public works contracts valued at \$1,000,000 or more; and

WHEREAS, in 2023, with the adoption of Engrossed Substitute House Bill 1050, the Washington State Legislature modified and expanded apprenticeship utilization requirements to municipalities and established a decreasing contract amount over the next four (4) years that would require at least 15 percent of the labor hours be performed by apprentices from \$2,000,000 in 2024 to \$1,000,000 in 2028, which requires amendments to SMC Chapter 2.60 for uniformity with state law; and

WHEREAS, in 2023, with the adoption of Second Substitute Senate Bill (SSSB) 5268, the Washington State Legislature enacted changes to increase both equity and efficiency in public works procurement, including streamlining the delivery of small public works projects, and setting forth requirements for utilization of small businesses and businesses owned by women and minorities and allowing for direct contracting with small business, which become effective July 1, 2024, and require amendments to SMC Chapter 2.60 to ensure consistency with state law; and

WHEREAS, SSSB 5268, now codified in various sections of the RCW, including RCW Chapter 39.04, at RCW 39.04.151, permits the City to utilize a statewide small works roster developed by the Department of Commerce through the Municipal Research and Services Center as the City's small works roster; and

WHEREAS, since SMC Chapter 2.60 was last amended in 2020, various "housekeeping" amendments are necessary to provide greater clarity or consistency in these purchasing procedures or updates to reflect current practices and to allow for increases in certain purchasing authority based on inflation rates;

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

Section 1. Amendment to SMC Chapter 2.60. SMC Chapter 2.60 is amended as set forth in Exhibit A to this Ordinance.

Chapter 2.60

PURCHASING

Sections:

- 2.60.010 Purpose.
- 2.60.020 Policy statement.
- 2.60.030 Definitions.
- 2.60.040 General provisions.
- 2.60.050 Purchase of materials, supplies or equipment.
- 2.60.060 Public works ~~projects~~contracts.
- 2.60.070 Services.
- 2.60.080 *Repealed*.
- 2.60.090 Real property acquisition.
- 2.60.100 Environmental purchasing – Compost.

2.60.010 Purpose.

This chapter is intended to direct the contracting for public works, materials, supplies, and equipment, services, and real property at a reasonable cost, using an open, fair, documented and competitive process whenever reasonable and possible. The integrity, efficiency, and effectiveness of the city's procurement functions are critical elements of sound government. ~~[Ord. 890 § 1 (Exh. A), 2020; Ord. 620 § 1, 2011; Ord. 272 § 1, 2001]~~ The purchasing procedures of this chapter govern the purchase of materials, supplies, equipment, services, and public works contracts. These procedures establish a small works roster process and an alternative process to award public works contracts as authorized by RCW 35.23.352, 35A.40.210, and Chapters 39.04 and 39.10 RCW.

2.60.020 Policy statement.

A. The city desires a fair and open process that is free from the potential for bias and conflict of interest. In addition, the city desires consistent and appropriate practices for solicitations and contracting. All purchases shall provide the city with the best quality and best value. All purchases are to be made within budgetary limitations and for the purpose of the goals and objectives approved in the city's budget. Any purchase made that is not within budgetary limits shall be pre-approved through a budget amendment process. All purchases made by the city shall ultimately be approved by the city council through the voucher approval process.

B. The administrative services department is charged with developing administrative rules and procedures to implement this chapter. These administrative rules and procedures should ensure the fiscal responsibility of the city in expending resources for goods and services for city operations and shall be based on guidelines provided in the Revised Code of Washington; and by the State Auditor's Office; ~~and by Municipal Research Services Center.~~

C. ~~The purchasing procedures of this chapter govern the purchase of materials, supplies, and equipment, nonprofessional and professional services, and public works contracts. These procedures establish a small works roster process and an alternative process to award public works contracts as authorized by RCW 35.23.352, 35A.40.210, and Chapters 39.04 and 39.10 RCW. [Ord. 890 § 1 (Exh. A), 2020; Ord. 620 § 1, 2011; Ord. 272 § 1, 2001]~~

2.60.030 Definitions.

~~"Alternative public works contracting procedure" means the design-build, general contractor/construction manager, and job order contracting procedures authorized by RCW 39.10.300, 39.10.340, and 39.10.420, respectively. shall have the same meaning as set forth in RCW 39.10.210.~~

"Architectural and engineering services" means professional services rendered by any person, other than a city employee, to perform activities within the scope of the professional practice of architecture (Chapter 18.08 RCW), professional practice of engineering and land surveying (Chapter 18.43 RCW), and/or professional practice of landscape architecture (Chapter 18.96 RCW).

"City manager" shall mean the city manager for the city of Shoreline or designee.

“Public work,” as defined in RCW 39.04.010, means a complete project, and includes all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the city or which is by law a lien or charge on any city property. Public work projects include the related materials, supplies and equipment to complete the project. Public works include contracts for maintenance of city facilities or real property shall have the same meaning as set forth in RCW 39.04.010.

“Purchasing threshold” means the maximum dollar value of a contract or amendments above which requires city council approval.

“RCW” means the Revised Code of Washington. All references in this chapter to the RCW shall include any future amendments to the referenced statute.

“Request for proposals (RFP)” means a process that requests interested firms to submit a statement of their proposal for completing a project. Proposals are then evaluated based on the idea, including originality, suitability, practicality, expertise, etc. Proposals may be selected based on the quality of the proposal, and to a lesser extent, experience, cost, and references means a competitive solicitation issued by the city that considers such facts as qualifications, experience, quality of project teams, costs, and/or proposed technical solutions.

“Request for qualifications (RFQ)” means a process that requests interested consultants to submit a letter of interest and a statement of persons to respond with a description of their experience and their qualifications. Consultants Persons are evaluated upon their qualifications, expertise, and references. Cost cannot be a consideration until after a consultant person has been selected at which point the price may be negotiated.

“Small business” shall have the same meaning as set forth in RCW 39.04.010(7).

“Small works roster” is a roster of qualified contractors maintained for use in a modified formal bid process. When the contract amount for a public works project is less than the dollar threshold for small public works projects as set forth in RCW 39.04.155, as amended, means the statewide small works roster developed by the Washington State Department of Commerce through MRSC in accordance with RCW 39.04.151(2); the city may follow the small works roster process for construction of a public work or improvement as an alternative to formal competitive bid requirements.

“Unit priced contract” means a competitively bid contract in which public works are anticipated on a recurring basis to meet the needs of the city under which the contractor agrees to a fixed period indefinite quantity delivery or work at a defined unit price for each category of work as set forth in RCW 39.04.235, as amended.

“WAC” means the Washington Administrative Code. All references in this chapter to the WAC shall include any future amendments to the referenced code provision.

2.60.040 General provisions.

A. Federal, or State, or Grant Funds. When a purchase involves the expenditure of state or federal funds or grants federal, state, or grant funds, purchasing shall be conducted in accordance with any applicable federal or state laws or regulations and the terms and conditions of the grant.

B. Breaking Down or Splitting Purchases. The breaking down, or splitting, of any purchase or contracts into units of or phases for the purpose of avoiding the maximum dollar amount is prohibited.

C. Bid Protest. Any bidder may file a written protest against award of a contract to the lowest bidder consistent with the provisions of the bid documents.

C. D. Emergency Purchases. Notwithstanding any other provisions of this chapter, the city manager or designated agent may make or authorize others to make emergency purchases of materials, supplies, equipment, or services without complying with the requirements of this chapter when there exists a threat to public health, welfare, or safety or threat to proper performance of essential functions; provided, that such emergency purchases 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 vendor or contractor shall be included in the contract procurement

2.60.050 Purchase of materials, supplies or equipment.

A. Purchasing Thresholds. Purchasing thresholds apply to the cost of individual items or the sum of the same items purchased at the same time to fulfill a specific business need, which are not part of a public works project as defined by RCW 39.04.010 and this chapter. Cost is inclusive of sales tax, delivery charges and any related miscellaneous charges. The city manager may authorize the acquisition of materials, supplies, or equipment with a cost equal to or less than ~~\$100,000~~ the city manager's purchasing threshold; otherwise city council approval is required.

1. Purchases Equal To or Less Than \$10,000. Purchases where the cost is \$10,000 or less do not require any informal or formal competitive quotes or purchase orders. Departments are allowed to make these purchases administratively in accordance with administrative rules and procedures developed by the director.
2. Purchases Greater Than \$10,000 but Equal to or Less Than \$25,000. Purchases where the cost is greater than \$10,000, but equal to or less than \$25,000, require that the city make every effort to obtain a minimum of three written or oral informal competitive quotes.
3. Purchases Greater Than \$25,000 but Equal to or Less Than \$50,000. Purchases where the cost is greater than \$25,000, but equal to or less than \$50,000, require that the city obtain a minimum of three written informal competitive quotes in accordance with administrative rules and procedures developed by the director.
4. Purchases Greater Than \$50,000 ~~but Equal to or Less Than \$100,000~~. Purchases where the cost is greater than \$50,000, ~~but equal to or less than \$100,000~~, require that the city follow formal competitive bidding processes.
5. ~~Purchases Greater Than \$100,000. Purchases where the cost is greater than \$100,000 require that the city follow formal competitive bidding processes. The city council shall authorize these purchases based on the results of the formal competitive bidding process and city staff recommendations. The city council shall authorize purchases that exceed the city manager's purchasing threshold based on the results of the formal competitive bidding process and city staff recommendations.~~
6. The lease of equipment or other personal property shall follow the procedures contained in this section with the aggregate of lease payments over the life of the lease serving as the basis for the purchase cost.
7. Software purchases, other than software-as-a-service, when initially procured, shall follow the purchase guidelines in this section. License renewals or required upgrades to ensure continued functionality may be approved administratively.

B. Exceptions to Purchasing Thresholds. The city manager is authorized to allow open market purchases without obtaining the regularly required competitive quotes or bids under the following conditions:

1. Surplus or Distress Sale. When it is possible to procure obvious bargains through the procurement of surplus or distress material, supplies, or equipment.
2. Auctions. RCW 39.30.045 authorizes the city to acquire materials, supplies, or equipment through an auction conducted by the United States or any agency thereof; an agency of the state of Washington; a municipality or other government agency; or any private party; without quotations or bids, if the items to be purchased can be obtained at a competitive price.
3. Items for Quick Delivery. When the obtaining of competitive bids or quotations will cause delay resulting in an appreciable loss to the city.
4. Interlocal Joint Purchasing Agreements. Materials, supplies, or equipment may be purchased pursuant to RCW 39.34.080 using joint purchasing agreements with a city, county, state or other public agency. Such joint purchasing agreements shall be approved by the city council prior to solicitation of vendors.
5. Sole Source Procurement. A contract for the purchase of materials, supplies, or equipment may be awarded without complying with the bidding requirements of this chapter when the city manager ~~or designee~~ determines, after conducting a good faith review of available resources, that there is only one source of the required materials, supplies, or equipment. The director ~~or designee~~ shall conduct negotiations, as appropriate,

purchasing threshold, the bids shall be submitted to the city council, along with staff recommendation on selection of lowest responsible vendor. The award of bid shall be made to the lowest responsible bidder whose bid meets the specifications and evaluation criteria set forth in the invitation for bids. The city may reject all bids at its discretion as provided by state law.

E. Lowest Responsible Vendor. The following factors, in addition to price, may be taken into account by the city in determining the lowest responsible vendor:

1. Any preferences provided by law to local products and vendors;
2. Such other information as may be secured indicating a reasonable probability that the vendor shall not be able to perform the contract according to its terms and specifications.

F. Life Cycle Costing. In considering the purchase of materials, supplies, or equipment, whenever there is a reason to believe that applying the “life cycle costing” method of quote evaluation would result in the lowest total cost to the city, first consideration shall be given to purchases with the lowest life cycle cost which complies with the specifications.

G. Recycled Products. The city shall seek to maximize purchase of products using recycled materials and products suitable for recycling, unless the purchase will result in an unreasonable increase in price or degradation of quality or performance over comparable products.

2.60.060 Public works projects~~contracts~~.

A. Purchasing Procedures. Public works contracts shall follow bid requirements applicable to code cities with a population in excess of 20,000, as set forth in RCW 35.23.352. Cost for a public works project includes all amounts paid for materials, supplies, equipment, and labor ~~on the construction of that~~ of the completed project, which is inclusive of sales tax, unless exempted by law. All public works projects require a contract.

~~B. Purchasing Limitations. The city manager may authorize the purchase and execution of public works projects equal to or less than the dollar threshold for small works projects as set forth in RCW 39.04.155 as amended. —~~
Formal Competitive Bid Process. Departments shall use the formal competitive bid process set forth in RCW 35.23.352 for public works projects with an estimated cost in excess of the maximum dollar threshold as set forth in RCW 39.04.152(1). The city council shall authorize the city manager to execute the related contract.

~~C. Alternatives to Competitive Bids. “Craft” means a recognized construction trade or occupation for which minimum wage categories are established by the Department of Labor and Industries of the state of Washington in the locality of the city’s projects. — The city manager may authorize the execution of public works contracts with an estimated cost equal to or less than the dollar threshold defined in RCW 35.23.352 and 39.04.152 in the following situations:~~

1. ~~Whenever the estimated cost for a pProjects for of single craft or multiple crafts with a reasonably anticipated price is equal to or less than the dollar thresholds as set forth in RCW 35.23.352, as amended, do not require the use of competitive quotes or bids. Departments are allowed to make these purchases administratively in accordance with the administrative rules and procedures developed by the director. All purchases require a purchase order or an executed contract.~~
2. ~~Whenever the estimated cost for a pProjects for of single craft or multiple crafts with a reasonably anticipated price higher is equal to or less than the dollar thresholds as set forth in RCW 35.23.352, as amended, up to the maximum dollar threshold as set forth in RCW 39.04.155, as amended, shall either departments are allowed to use the small works roster or a formal competitive bid procurement process. All purchases require a purchase order or an executed contract. set forth in subsection D of this section.~~
3. ~~Projects with a cost in excess of the maximum dollar threshold as set forth in RCW 39.04.155, as amended, require a formal competitive bid process. The city council shall authorize these purchases and provide authority for the city manager to execute the related contract.~~

c. After an award is made, the bids obtained shall be recorded, publicly available, and available upon request.

d. At least once every year, the city shall publish a list of the contracts awarded under the small works roster process. The list shall also include the contractors contacted for direct negotiation under this process. The list shall contain, at a minimum, the information required by RCW 39.04.200

~~4. Appeal. Any contractor whose request to be on the roster(s) has been denied may appeal within 10 calendar days after the denial to the city manager; the city manager will make a decision within 30 calendar days of the notice of appeal. A denial by the city manager may be appealed to the city council within 10 calendar days of the date of the decision. The city council shall hold a public hearing on the issue and make a decision within 45 calendar days of receipt of the notice of appeal. A denial that is not appealed, or that is appealed and results in a final decision against the contractor, prevents the contractor from applying to be on the roster(s) for a period of one year from the date of the initial request.~~

~~5. Process. Whenever work that has received city council approval in the current budget, or otherwise been approved by the city council, is sought to be accomplished using a small works roster, a city representative shall obtain telephone, written or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award a contract to the lowest responsible bidder as follows:~~

~~a. A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.~~

~~b. Quotations may be invited from:~~

~~i. All appropriate contractors on the appropriate small works roster, by sending notice to these contractors; or~~

~~ii. At least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate small works roster. For purposes of this section, "equitably distribute" means that the city may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.~~

~~c. At the time quotations are solicited, the city representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.~~

~~d. A written record shall be made by the city representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bids obtained shall be recorded, open to public inspection, and available upon request.~~

~~e. At least once every year, a list of the contracts awarded under this process is to be furnished to the city council and made available to the general public. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bids for these contracts are available for public inspection.~~

~~6. Determining Lowest Responsible Bidder. The city shall award the contract for a small works project to the lowest responsible bidder; provided, that whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the city may call for new bids.~~

~~7. Cancellation of Invitations for Quotations. Each invitation for quotations bid or direct contract negotiation issued by the city shall state that the invitation may be canceled at the discretion of the director. Thei reason(s)~~

2. All public works contractors shall furnish a performance bond in an amount equal to the total amount of the contract on a form approved by the city attorney, with the following exceptions:

a. In lieu of a performance bond on contracts less than the dollar threshold set forth in RCW 39.08.010, as amended, a contractor may request to have the city accept the percentage allowed by RCW 39.08.010 of the contract retained for a period of 30 calendar days after the date of the city's final acceptance of the project or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later. As authorized by RCW 39.08.030, the city may, at its option, reduce the amount of a performance bond to not less than 25 percent of the total contract amount for on-call, unit priced, or scheduled maintenance contracts.

G. Cancellation of Bids. The City Council may, by resolution, reject any or all bids and make further calls for bids in the same manner as the original call.

H. Apprenticeship Utilization.

1. All contracts meeting the threshold requirements defined in RCW 39.04.320 shall require that no less than 15 percent of the labor hours performed by workers subject to prevailing wages employed by the contractor or its subcontractors be performed by apprentices enrolled in an apprenticeship training program approved or recognized by the Washington State Apprenticeship and Training Council. Staff shall monitor apprenticeship utilization hours throughout the contract and report final apprenticeship utilization by final project acceptance using the Department of Labor and Industries Prevailing Wage Intents and Affidavits System.

Staff shall develop a contract specification for apprenticeship utilization goals to be met, monetary incentives for meeting the goals, monetary penalties for not meeting the goals, and an expected cost value to be included in the bid associated with meeting the goals.

a. The public works director may adjust the requirements for apprentices in bid documents or reduce the apprenticeship hours during the contract if:

i. The apprenticeship requirement conflicts with state or federal funding conditions, or the conditions of any other grant or funding program;

ii. An insufficient number of apprentices are available in the geographic region to meet the contract requirements; or

iii. The project involves a disproportionately high ratio of material costs to labor hours.

iv. The contractor has demonstrated a good faith effort to comply with the requirements, or

v. Other criteria the City deems appropriate as defined in the contract specification.

2.60.070 Services.

A. Purchasing Thresholds. Purchase thresholds 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 equal to or less than \$100,000 the city manager's purchasing threshold may be executed by the city manager, administratively selected by departments in accordance with the administrative rules and procedures developed by the director.

2. Contracts greater than \$100,000 the city manager's purchasing threshold require formal solicitation and shall be authorized by the city council.

3. The initial contract procurement process should apply a realistic and complete scope of services and length of time that would be necessary to complete a project unless intermediate stages have documented independent

director; provided, the city manager may waive the RFP process as provided in subsection (D)(3) of this section, Waiver of Process.

3. Waiver of Process. For all types of services, when a contract has an estimated cost greater than \$100,000 the city manager's purchasing threshold, the city manager may waive the RFQ process in the following circumstances:

- a. Quantifiable costs of delay in using an RFP process are likely to outweigh higher quality performance expected from the RFP process;
- b. It can be demonstrated that there are insufficient contractors on the services roster that possess the required qualifications to perform the scope of work or, for non-services roster contracts, that specialized expertise, experience, or skill is needed for a successful outcome and outweighs potentially lower price proposals; or
- c. A contractor has previously provided satisfactory service to the city related to the specific project and has the qualifications to perform the scope of work.

E. Interlocal Joint Purchasing Agreements. Services may be purchased as authorized by RCW 39.34.030 using joint purchasing agreements with a city, county, state, or other public agency. Such joint purchasing agreements shall be approved by the city council prior to utilization.

2.60.080 Interlocal joint purchasing agreements.

Repealed by Ord. 890

2.60.090 Real property acquisition.

A. Real Property – Acquisition Authority. The city manager is authorized 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, if necessary, in the following instances:

1. Minor Acquisitions. Any acquisition where the purchase price is equal to or less than \$10,000.
2. Approved Projects. Any 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 city council and the cost of the property is not greater than \$50,000 or other amount specifically authorized for a particular project, subject to the following:
 - a. Acquisitions in excess of \$25,000 shall be appraised and city manager approval may not exceed 10 percent of the fair market value of the property as determined by the city's appraiser or review appraiser.
 - b. For projects in the city's capital improvement plan, the city manager is authorized to convey city council's intent that these projects shall be accomplished with the use of eminent domain if necessary.
3. Relocation Claims. Where real property acquisition requires relocation, reimbursement of relocation costs is not included in the authorization limits of subsection (A)(2) of this section. The city manager is authorized to approve properly documented claims up to the limits prescribed by federal or state law regardless of amount, provided the city council has approved a project relocation plan for the project which includes any good faith parcel relocation cost estimate that exceeds \$50,000 or such higher parcel relocation limit approved by city council for a particular project.
4. All other real property acquisitions shall be submitted to the city council for approval.

B. Real Property – Manager's Leasing Authority.

1. The city manager or 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/or the consideration does not exceed \$50,000 per year.