

## **ATTACHMENT C**

### **Excerpts from the Palo Alto Municipal Code**

#### **Chapter 2.30- Contracts and Purchasing Procedures**

### **2.30.360 Exemptions from competitive solicitation requirements.**

The following are exemptions from the informal and formal competitive solicitation requirements of this chapter, except as otherwise provided. These exemptions will be narrowly interpreted and applied. The department requesting an exemption shall provide all relevant information supporting the application of the exemption to the Procurement Officer. Based upon this information, the Procurement Officer shall make a recommendation to the City Manager and the City Manager shall determine whether an exemption from the competitive solicitation requirements applies. Nothing herein is intended to preclude the use of competitive solicitations, as practicable.

(a) Emergency Contracts, provided that any procurement of goods and services obtained during an emergency declared by the Federal Emergency Management Agency shall comply with applicable FEMA Public Assistance Program's orders, rules, regulations, guidelines and control procedures for cost reimbursement purposes.

(b) Whenever solicitations of bids or proposals would for any reason be impracticable, unavailing or impossible, provided that in the case of a public works project, the project is not otherwise required by the charter to be formally bid. These situations are those where solicitations of bids or proposals would not be useful or produce any operational or financial advantage for the city. Situations where solicitations of bids or proposals would be impracticable, unavailing or impossible, include, without limitation, the following:

(1) Contract specifications cannot be drawn in a way that would enable more than one vendor, consultant or contractor to meet them;

(2) Due to circumstances beyond the control of the city, the time necessary to use the competitive solicitation process, procedures and requirements would result in a substantial economic loss to the city or the substantial interference with a required city operation;

(3) Special conditions attached to a grant, donation or gift requires the use of particular goods and/or services.

All requests for exemptions under this subsection shall be supported by written documentation (facsimile or electronic mail may be used), approved by the department head and the Procurement Officer.

(c) Where competitive bids or requests for proposals have been solicited and no bid or proposal has been received, or where no bid or proposal meeting the requirements of the invitation to bid or request for proposals has been received, provided that, in the case of a public works project, the project is not otherwise required by the charter to be formally bid.

(d) Contracts for goods, wholesale commodities and services, general services or professional services available from only one source, where the Procurement Officer has determined, in writing, there is no adequate substitute or equivalent provider. Examples of acceptable sole source acquisitions or purchases may include, without limitation: equipment or services for equipment, for which there is no comparable competitive product or service except that provided by the equipment manufacturer, distributor or dealer; proprietary products sold directly by the manufacturer; a component or replacement part, for which there is no commercially available substitute and which can be obtained only from the manufacturer; goods where there is only one authorized distributor in the area; and goods where compatibility with goods in use by the city is an overriding consideration. All requests for sole source acquisitions or purchases shall be supported by written documentation (facsimile or electronic mail may be used), approved by the office or department head, and forwarded to the Procurement Officer.

(e) Contracts for goods where, pursuant to Section 2.30.900, the City Manager has determined that standardization of the supplies, materials or equipment is permissible.

(f) Placement of insurance coverage and surety bonds.

(g) Legal services contracts, including, without limitation, the services of outside counsel, consultants and other experts needed for litigation, administrative or other legal proceedings.

(h) Professional services contracts for private development related studies and services whenever the services are funded wholly by private developers.

(i) Professional services contracts, where the estimated total expenditure by the city, regardless of term, does not exceed \$50,000.00.

(j) Cooperative purchases, with one or more other public agencies or through a cooperative purchasing agency, provided: (i) the services are solicited using methods substantially similar to those required by this chapter, as determined by the Procurement Officer; and (ii) the contract is consistent with the requirements specified in this municipal code.

(k) The use of another governmental or public agency's contract or substantially the same contract terms provided: (i) the agency uses a solicitation method substantially similar to the method required by this chapter; (ii) the contract is consistent with the requirements specified in this municipal code; and (iii) the Procurement Officer determines that the city will realize overall value to utilizing the other agency's contract or contract terms compared to the city performing its own solicitation.

(l) Contracts with, or solicited on the city's behalf by, Northern California Power Agency, Transmission Agency of Northern California, and Western Area Power Administration to procure wholesale utility commodities and services that meet the requirements of Section 2.30.340(d) or 2.30.360(k).

(m) Contracts with Pacific Gas and Electric Company and the California Independent System Operator Corporation for energy transmission services to the extent necessary and expedient to provide for the general health, safety and welfare of

the city's utility customers.

(n) Contracts with any public agency or governmental body to construct a public work, where the Procurement Officer determines the public agency or governmental body has used methods similar to those required by this chapter to contract for the public work.

(o) Contracts with any public utility holding a certificate of public convenience and necessity or any entity holding a cable service or video service franchise pursuant to chapter 2.10 of this municipal code to construct a public works, where such works involves property of such public utility or cable service or video service franchisee and is otherwise of direct concern to both the city and such public utility or cable service or video service franchisee, provided that the project is not otherwise required by the charter to be formally bid.

(p) Contracts with private developers to construct public improvements in connection with their development projects, even if the city contributes funds to the improvement project, provided that the projects are not otherwise required by the charter to be formally bid.

(q) Projects, where the public work is performed by the city with its own employees.

(r) Contracts, where the estimated total expenditure by the city does not exceed \$10,000.00.

(s) Contracts with entities to procure at wholesale prices utility commodities and services under a city "feed-in tariff" energy program that meets the requirements of Section 2.30.340(c).

(t) Professional services contracts in relation to personnel matters for: recruitment consultants, workplace investigations, threat assessments, conflict intervention, and industrial safety.

(Ord. 5494 § 21, 2020: Ord. 5387 § 1 (part), 2016: Ord. 5148 § 2, 2012: Ord. 5081 § 1, 2010: Ord. 4827 § 1 (part), 2004)