

WAIVER OF COMPETITIVE BID (WCB) AWARD JUSTIFICATION

Departments must use this form when submitting a WCB request, per City Code. No substitute format will be accepted. Purchasing may require departments to submit additional documentation to support analysis of the justification. Additional documentation may include, but is not limited to, the statement of work, cost breakdown, funding source, grant funding, resumes, etc. If you need assistance with this form, please call Purchasing ext. 3700.

WCB request must be approved before the department engages with any vendors.

Submit completed original form to: Purchasing Dept. via PR in City ERP system. Name the attachment WCB. Please select SS in Req Code Box 4 when submitting and WCB Purchase Requisition. Purchasing provides preliminary review of all waiver requests. Final approvals are provided per award authority as determined by City Code. If approved, the Purchasing Department will assist the requestor in executing the final approval under the appropriate award authority.

All information must be provided, and all questions must be answered. The "Required Approvals" section must include a date for each **original** signature, as appropriate for the transaction.

Department and Representative Information	
City of Santa Rosa	
Department: Water	
Name of Primary Contact for this request: Robert C. Wilson	
Email Address and Phone Extension: rwilson@srcity.org (707) 543-4369	
By submitting this request, the Department Representative above certifies the following:	
My department's recommendation for WCB is based upon an objective review of the product/service required and is in the best interest of the City.	
No gratuities, favors, or compromising actions have influenced this request. My personal preference for particular brands, types of equipment, materials or firms has not been of influence. I know of no conflict of interest on my or any other individual's part, nor do I have any personal involvement in any way with the supplier(s) involved. As an approved department representative, I have gathered technical information and have made a concentrated effort to review comparable equipment/services. I hereby certify as to the validity of the information and feel confident this justification for sole source item, manufacturer, or service is accurate and appropriate for this acquisition.	
By writing, justifying and submitting statements to waive competitive process, I understand these statements become part of the public record. False statements would carry weight similar to perjury. I recognize City personnel must not make any false or misleading statements in order to justify a sole source/brand or a waiver of procurement.	
Vendor Information	
Vendor Name: Agilent Technologies	
Vendor ID in ERP System: *V001823*	
Vendor Point of Contact Name and Email: Jessica Lee, Jessica.lee@agilent.com	
Required Information	
Request Type: ☐ Goods ☐ General Services ☒ Goods & Services ☐ IT Goods ☐ IT Services ☐ IT Goods & Services ☐ New Proprietary Software ☐ Existing Proprietary Software ☐ Minor Public Work ☐ Insufficient Time for bidding	☒ Sole Source Item: Item is required due to equipment compatibility, maintenance, training and parts support, or safety, and is available from only one source and is one-of-a-kind, not sold through distributors. Manufacturer is the exclusive authorized distributor. ☐ Sole Brand/Manufacturer: Item is required due to equipment compatibility, maintenance, training and parts support, or safety, and/or is one-of-a-kind. Various sources can supply this product and will be competitively bid for this brand/manufacturer with "no substitution or like equal" language provided within the solicitation. ☐ Sole Source Service: Services cannot be provided by any other consultant/contractor/provider.

- ☐ **Waiver 3-08.100 (D) of Competitive Bidding:**
If limitations on the source of supply, necessary restrictions in specifications, necessary standardization, quality considerations, or other valid reasons for waiving competition appears, then purchases may be made without recourse to the competitive bidding provisions of this chapter. Approval of waiver of competitive bidding shall be given by the same level of authority as set forth in Section [3-08.110](#) of this chapter.
- ☐ **Waiver 3-44.080 (A) of Competitive Bidding Minor Public Work:**
A minor contract for public works may be made free of the bidding requirements of this chapter when the awarding authority determines that it is in the best interests of the City to suspend competitive bidding for that contract.
- ☐ **Insufficient Time (Dept. must submit a corrective action plan - see Section C below):**

Estimated Requested Award Amount:* \$173,000.00

Will the purchase limit the ability of other vendors to compete on future purchases such as supplies, upgrades, or replacements? ☐ YES ☒ NO

Is your request going to become an ongoing need? ☐ YES ☒ NO

If yes, what is the yearly budget amount identified for the ongoing need? \$_____

Description of Acquisition

Complete responses must be provided for all of the following items.

This acquisition is purchasing an Agilent 5900 Inductively Coupled Plasma Optical Emission Spectroscopy (ICP-OES) Instrument to support the analysis of metals and nutrient analysis for water and solid waste matrices. The quote includes the 5900 ICP-OES, autosampler, support equipment, and five years of service from the manufacturer.

A. THE ACQUISITION REQUESTED IS BEING AWARDED AS A WAIVER FOR THE REASONS STATED BELOW:

1. Describe the acquisition being requested and why it is restricted to this good/service/supplier or subject to a waiver of competition.

The Laguna Environmental Laboratory must analyze samples for metals and other elements to meet the monitoring requirements found in various National Pollutant Discharge Elimination System (NPDES) Permits, drinking water standards, and the Federal 503 Biosolids regulations. In addition to regulations that the City complies with, other elemental analysis is needed for the City's Geysers contract to confirm water quality contractual agreements are met. The purchase of the Agilent 5900 ICP-OES replaces the existing Spectro ICP-OES that has exceeded the service life of the instrument, is no longer supported by the manufacturer, and running on software that requires Windows 7.

2. Provide the background of events that prompted this request.

(For non-IT and IT goods, include the unique performance factors and explain why they are required? Previous history, bid process or any other data)

The current Spectro ICP-OES is 18 years old and has exceeded its expected service life. The current ICP is not support by manufacturer and spare parts are becoming difficult to acquire.

3. What are the consequences of not purchasing the good/service or contracting with the proposed supplier?

1. The City would be unable to perform metals and other elemental laboratory analysis and would need to subcontract the analysis to a third-party laboratory.
2. Delays in reporting and process modifications due to slower analytical results from contract laboratories.
3. Increased cost by sending samples to contract laboratories.
4. Less confidence in data quality and integrity and possible method detection capabilities.

4. What criteria were used in the market research to substantiate no competition or waiver, including evaluation of other goods/services?

(Provide a narrative to the extent of your market research that includes suppliers contacted, or an explanation of why market research was not conducted. For non-IT and IT goods, also include what other products were examined and why they were rejected?)

Agilent Technologies is the sole source provider for the 5900 ICP-OES and the instrument is similar to existing instrumentation in the laboratory including software and data packets that need to work in tandem with the Laboratory Information Management System (LIMS). The purchase of the 5900 ICP-OES significantly reduces instrument downtime for method development as it matches existing instrumentation. Additionally, the method detection capabilities of other instruments may not meet regulatory and contractual needs.

5. If possible, provide (attach) current written documentation from the Vendor that supports justification.

B. PRICE ANALYSIS:

1. How was the price determined to be fair and reasonable?

(Explain and provide the basis of your comparison to include market rates, contract pricing, historical pricing, cost breakdown, etc., as applicable.)

The quotes received directly from the manufacturer are used here as an estimate for the purchase.

2. Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.

(Quantify and substantiate the cost savings realized or averted costs. The information provided must include numbers/data in addition to narrative that describes and supports the cost savings realized or avoided by acquiring the goods/services from this supplier.)

By purchasing the Agilent 5900 ICP-OES directly from Agilent, the City will save cost by taking advantage of manufacturer pricing and 35% discount and 9% promotional discount described in the quote. The total discounted value reduces the overall cost by \$91,170.64. Additionally, by maintaining elemental analysis within the Laguna Environmental Laboratory, the confidence in the data used to determine future regulatory limits is retained.

C. CORRECTIVE ACTION PLAN:

This section must be completed only if the WCB is being submitted *due to the department not allowing sufficient time to complete a required competitive acquisition process*, as the good/service could have been competitively bid or are available through a competitive process. This does not apply to emergency procurements in accordance with City Code. Please utilize an Emergency PR for acquisitions that meet the definition of local emergency.

1. How will your department ensure adequate planning to prevent future submittal of WCB's for goods or services that should have been competitively bid?

(Outline in detail the department's plan to maximize the use of competitive bidding for this acquisition in the future. Failure to follow the Corrective Action Plan may impact the department's delegated purchasing authority. This plan must be kept on file for future auditing purposes)

The Water department submits competitive bids regularly and provides the best costs of goods and services for our ratepayers. Occasionally, scientific instruments require higher quality components to ensure consistent data integrity for regulatory compliance.

Division Manager and Director Approvals:

By Signing Below, I Hereby Certify That:

- 1) I am aware of the City's requirements for competitive bidding, as well as the criteria for justification for sole source/brand purchasing or waiver of competitive bid.
- 2) I have reviewed the technical information presented above and concur with the findings presented.
- 3) I have determined that there is validity as to the information contained herein.
- 4) I certify that this purchase will not present a conflict of interest, as defined by City policy, and that I have received no gifts or gratuities from this supplier.
- 5) To the best of my knowledge, a sole source/brand purchase in this case would withstand a possible audit or a Vendor's protest.

Required Approvals

Division Manager	Director of Dept
☒ Approved ☐ Denied	☒ Approved ☐ Denied
<u>Robert C. Wilson</u> Robert C. Wilson (Apr 5, 2023 14:05 PDT) Robert Wilson, Acting Deputy Director on behalf of Sean McNeil Signature of Dept Head or Designee/Date	<u>Jennifer Burke</u> Signature of Director or Designee/Date
Sean McNeil Print Name of Division Manager	Jennifer Burke Print Name of Director
DATE <u>Apr 5, 2023</u>	DATE <u>Apr 5, 2023</u>
Purchasing Agent's approval or denial works through the City ERP system under workflow.	

*This is a budgetary estimate only, subsequent to approval of the WCB, Department will then receive approval to request a quote(s) and this value can be adjusted when submitting final PR.

** If Vendor is not set up in City ERP System, please contact the vendor to obtain a W9, and submit a "New Vendor Request Form" to Accounts Payable, in order to obtain a Vendor ID.

<http://iweb2/NewVendorReq/Default.aspx?ID=0>

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WCB_Agilent_Tech_ICP

Final Audit Report

2023-04-05

Created:	2023-04-05
By:	Easter Ledesma (eledesma@srcity.org)
Status:	Signed
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"WCB_Agilent_Tech_ICP" History

-  Document created by Easter Ledesma (eledesma@srcity.org)
2023-04-05 - 7:41:25 PM GMT
-  Document emailed to rwilson@srcity.org for signature
2023-04-05 - 7:42:51 PM GMT
-  Email viewed by rwilson@srcity.org
2023-04-05 - 9:05:00 PM GMT
-  Signer rwilson@srcity.org entered name at signing as Robert C. Wilson
2023-04-05 - 9:05:28 PM GMT
-  Document e-signed by Robert C. Wilson (rwilson@srcity.org)
Signature Date: 2023-04-05 - 9:05:30 PM GMT - Time Source: server
-  Document emailed to Jennifer Burke (jburke@srcity.org) for signature
2023-04-05 - 9:05:31 PM GMT
-  Email viewed by Jennifer Burke (jburke@srcity.org)
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-  Document e-signed by Jennifer Burke (jburke@srcity.org)
Signature Date: 2023-04-05 - 9:05:59 PM GMT - Time Source: server
-  Agreement completed.
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