



Request # WCP23-042
(assigned by OMB)

CITY OF PITTSBURGH
REQUEST FOR WAIVER OF COMPETITIVE PROCESS

Contract Title: Western Pennsylvania Conservancy (WPC)

Contract Description: The partnership between the WPC and the City is to conduct an inventory and analysis of City street trees.

Contract Duration: Roughly September 2023 thru December 2025.

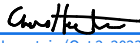
Requesting Department: Public Works (DPW) Contract Type: Professional Services Agreement

Requests for exemption must be based on one or more of the categories listed in City Code 161.02B located here:

Please list all category numbers that apply (see page 2) 161.02B, (a) (3) (i) & (iii)

Justification:

See Exhibit A attached.

Signed by: 
Chris Hornstein (Oct 2, 2023 09:27 EDT)
Department Director

Date: Oct 2, 2023

Waiver Request is hereby: Granted Denied

OMB Procurement:  Date: Oct 2, 2023

After completion, please email this form, along with any appropriate backup to procurement@pittsburghpa.gov

If a waiver is granted, contract authorization is then required by City Council. Department shall submit appropriate legislation and note the Resolution number on this form and submit a copy along with the contract when submitting to the Controller's Office for signature.

Resolution Number _____ Effective Date _____

§ 161.02B – EXEMPTIONS FROM COMPETITIVE PROCESS

(a) The following contracts are exempt from the requirement of a competitive process for selection, contingent upon obtaining a written waiver issued by the Director of the Office of Management & Budget or his/her designee, confirming that a recognized exemption applies to the contract because it falls within one or more of the following categories:

- (1) Emergency Contract, defined as: A contract required where there exists unforeseen circumstances beyond the City's control that either: (a) present a real and identifiable threat to the proper performance of essential functions or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.
- (2) Sole Source contracts, defined as: contracts involving services documented to fall within one of three categories: (i) where competition is precluded due to existence of patent rights, copyrights, or related proprietary claim; (ii) where supplier is the only identifiable source of the product or service; or (iii) where distributor or service provider has exclusive franchise or operating agreement w/ supplier or manufacturer of goods otherwise determined to be sole source.
- (3) Single Source contracts, defined as: contracts involving services documented to fall within one of the three categories: (i) available from only one source (in which case accompanying waiver request must clearly define the scope in which it is unique); (ii) for which only one prospective contractor is willing to enter into a contract with the City; or (iii) where an item required for the service has design and/or performance features that are essential to the department, including due to compatibility with services or goods currently in use, and no other source satisfies the City's requirements.
- (4) Contracts requiring compliance with terms and conditions of a court order, grant, collective bargaining agreement or governmental order.
- (5) Contracts for expert witnesses, consultants, or counsel associated with anticipated, pending, or potential litigation, including cases in which confidentiality could be compromised by public solicitation.
- (6) Intergovernmental agreements.
- (7) Contracts for supplies, equipment, or materials at auctions and surplus sales conducted by the government of the United States or any agency thereof, any agency of the Commonwealth of Pennsylvania, any municipality or other government agency, or any private party, if the items can be obtained at a competitive price, if determined in advance and in writing that the procurement by auction or surplus sale is in the best interests of the City.
- (8) Contracts for subscriptions to periodicals, databases, legal research services, or legal publications.
- (9) Services of visiting speakers or performing artists.
- (10) Contracts for which a continuation of services is desired by the using department in order to maintain the essential functions of the City as determined in writing by the Office of Management and Budget, including but not limited to contracts for maintenance of existing software or equipment.
- (11) Legally required advertisements and postage.
- (12) Dues and memberships in trade or professional organizations.
- (13) Abstracts of titles for real property and title insurance.
- (14) Statutorily-dictated procurement.

(b) The Office of Management & Budget shall maintain a policy further defining the categories listed above and the process by which waivers are to be requested, reviewed and executed if deemed appropriate.

EXHIBIT A: Justification

Contact Assistant City Solicitor Lorraine Mackler with questions.

This contract should be exempt from the requirement of a competitive process for selection, and we request a written waiver because it is a single source contract, and satisfies both the first and third category of § 161.02B:

(i) available from only one (1) source (in which case accompanying waiver request must clearly define the scope in which it is unique):

A. Only WPC has the skills, experience, knowledge, and data to manage the Tree Inventory project. As an aside, WPC will hire its contractor using a competitive process. Crucial to the City is an inventory allowing for a full comparison with the 2014 Tree Inventory to determine the state of Pittsburgh's urban forest. Since 2014, WPC has managed the City of Pittsburgh Tree Inventory project, and since 2008 WPC has overseen the planting of approximately 40,000 street trees as well as overseen major tree pruning and removals. WPC maintains an exclusive database with exact GPS coordinates of every tree in a City of Pittsburgh right-of-way and tracks other data points including species and pit depth. In turn, WPC relies on City right-of-way maps for this database, making collaboration critical. WPC is thus uniquely situated in its knowledge, data, skills and experience. WPC designed and maintains three important documents which enable the City of Pittsburgh to advocate for additional support and resources for forestry programs: (1) the Street Tree Inventory, (2) a 10-year Street Tree Management Plan and budget, (3) and an iTREE Eco Analysis. Were the City to use any other partner in the Tree Inventory project we would be creating a new inventory from scratch, a fundamentally different, and more costly, process and would thus hamper the City's ability to make a meaningful comparison and assessment of the development of the urban forest.

B. Only WPC will enable the project to be done without any funding from the City's general budget. (\$100,000 is dedicated from the Shade Tree Fund and \$50,000 from a DCNR grant). This is a mere fraction of the full cost of approximately \$450,000, which WPC has arranged to cover, through its own efforts. No other entity is, or would be, able to allow the City to do this project with zero funding from the general budget.

(iii) where an item required for the service has design and/or performance features that are essential to the department, including due to compatibility with services or goods currently in use, and no other source satisfies the City's requirements.

A. The WPC's historical data and experience is "an item required for the service has design and/or performance features that are essential to the department." This current Tree Inventory is, in effect, a continuation of and dependent upon, the 2014 Tree Inventory and thus has "compatibility with services or goods currently in use." The Urban Forest itself is unique in that it must be planned for and evaluated over long periods of time, decades and even centuries, as it is growing. Mistakes made years ago must be remedied and the results will not be apparent for decades. Working with WPC is essential to ensure that the past ten years of work, and all the work we do now, will progress along a smooth path. WPC has design and performance features in its information and expertise not possessed by any other entity.

B. Only WPC will contribute its own substantial funding for this project, a performance feature essential to the Department. This enables the City to do the job for funding available solely from a DCNR grant and funding from the Shade Tree Trust Fund.