

# Attachment E

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## **SOLE SOURCE/SOLE BRAND JUSTIFICATION**

### **OVERVIEW:**

Contracts/Purchasing recognizes that departments often invest a great deal of time and effort in selecting a source or brand, prior to submitting a requisition to Purchasing. Even though the department's review process prior to the submittal of a requisition may be sound, departments may unknowingly discourage free and open competition by requesting a single vendor or product. Additionally, the County is bound by both federal and local laws as well as County Policies of which County Staff may be not be aware of. The lack of an effective means of communication between buyer and requesting departments can lead to both lost time in completing the requisition as well as possible adverse legal actions towards both the County and the requesting staff member. Purchasing can be an effective partner in a competitive review process given adequate time and involvement in your requirement definitions.

In an effort to expedite sole source/brand requisition requests through purchasing, we would encourage you to review the criteria for Sole Source/Brand form herein. If you feel your request meets such criteria, follow the instructions in filling out the form and attach it to your requisition. If sole source/brand justification is warranted and accepted by Purchasing, the requisition will be processed for the sole source/brand as requested.

This is an internal review process. Departments are requested to use discretion in their discussion with vendors so as not to compromise any competitive advantage the Buyer may utilize, regardless of the acceptance or rejection of the sole source/brand justification.

Rather than merely a shift of the review process and burden, this process acknowledges the significant effort a department may undertake when identifying a vendor or brand, and provides you with the method by which to make your requisitioning efforts more efficient under sole source/brand conditions.

Purchasing will advise you when a particular competitive review process may both serve the County better and/or be required by governing law.

In order for us to accept a request for sole source/brand the certification, the form referenced herein should be made a part of your justification and be signed by an authorized department representative. This certification will remain on file as part of your requisition package for audit purposes.

### **SOLE SOURCE PURCHASING:**

On rare occasions there may be a need to purchase goods or services from one vendor/contractor without going to formal bid or requesting competitive quotations. This is known as "Sole Source" purchasing.

“Sole Source” purchasing is authorized by Monterey County Code 2.32.040, Emergency Purchases, and by Monterey County Code 2.32.070, Competitive Bidding Not Required.

A sole source may be designated when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of the County.

“Sole Source” purchasing may be necessary under certain circumstances such as an emergency wherein the department head or other County Official who is authorized to sign requisitions may purchase items for the continuance of the department function, or that items purchased are necessary for the preservation of life or property, and that no authorized purchasing department personnel are immediately available to make the purchase.

The designation of a “Sole Source” supplier must be authorized by the County Purchasing Agent or Deputy-Purchasing Agent before the requirement for competitive quotations is waived.

**PROCEDURE:**

Sole source/brand purchasing is an exception to the normal procurement function and requires a detailed justification. In processing sole source/brand requests for supplies, services and/or equipment, Purchasing adheres to and is governed by the principles set forth in both the Federal and State Laws governing public purchasing and the Public Contract Code, and by the adopted and approved County of Monterey Policies and Procedures. As such, our decision is final.

If you are requesting a particular vendor, brand or product, you must make this fact clear on your requisition. Such a request should not be made unless the request is reasonable and appropriately justified to meet legal requirements and can withstand a possible audit. The County requirements and the format for submitting such requests are contained herein. Please make copies of the Criteria for Sole Source/Brand form for your future use.

The following factors **DO NOT** apply to sole source/brand requests and should not be included in your sole source/brand justification. They will not be considered and only tend to confuse the evaluation process.

1. Personal preference for product or vendor
2. Cost, vendor performance, and local service (this may be considered an award factor in competitive bidding)
3. Features which exceed the minimum department requirements
4. Explanation for the actual need and basic use for the equipment, unless the information relates to a request for unique factors
5. A request for no substitution submitted without justification. This is a sole source/brand request requiring detailed justification including established sole source/brand criteria

**County of Monterey**  
**General Services- Contracts/Purchasing Division**  
**JUSTIFICATION OF SOLE SOURCE/SOLE BRAND REQUEST**

Purchase Requisition Number     N/A     Date   10/08/2021  

Description of Item: To lease County concession areas at 1441 Schilling Place and 168 W Alisal Street.

1. Please indicate the following: N/A

Procurement:        Goods  
                          Services

(Check One)

Sole Source: Item is available from one source only. Item is a one-of-a kind and is not sold through distributors. Manufacturer is exclusive distributor.

Sole Brand: Various sources can supply the specified model and brand and competitive bids will be solicited for the requested brand only. Meets form, fit and function- nothing else will do.

Note: Sole Source/Sole Brand Requests are not maintained as a standing request. Each request is for a single one-time purchase only.

2. Vendor Selection:

Preferred Vendor  
 Sole Source

Vendor Name:       ZAKO HK INC (VS\* 7843)  
Address:            328 BRITTANY ROAD City: SEASIDE State: CA 93955  
Phone Number:     (510) 289-7242     Fax: (     )       
Contact Person:    Wanjoong Kim Title: Secretary  
Email:              [pfdcafe.schilling@gmail.com](mailto:pfdcafe.schilling@gmail.com)

3. Provide a brief description of the goods/services to be purchased and why this purchase is being proposed under a sole source acquisition.

- a) Why were product and/or vendor chosen?

ZAKO HK INC has been providing the food and beverage needs of all County visitors having business within the County Campus as well as employees working within the Campus since January 10, 2019. The County has chosen to terminate the current Agreement with PFD Management and to go out to bid for the service.

- b) What are the unique performance features of the product/brand requested that are not available in any other product/brand? For Services: what unique qualifications, rights, and licenses does the vendor possess to qualify as a sole source/brand request?

ZAKO HK INC has been providing healthy, affordable, and enjoyable food options for breakfast, lunch, and snacks for both County concession areas since January 10, 2019.

- c) Why are these specific features/qualifications required?

The County is asked to assure a reliable source of food service provided and made available within the referenced concession areas: 1441 Schilling Place and 142 West Alisal Street.

The goal of both the cafeteria at 1441 and Joe's Café at 142 West Alisal, is to provide healthy, affordable, and enjoyable food options for breakfast, lunch, and snacks. Along with serving County employee's campus-wide, it is anticipated that the Cafes will also receive patronage from County and State Departments within the facility, as well as visitors to the facility.

- d) What other products/services have been examined and/or rejected?

The County has chosen to terminate the Agreement with PFD Management without cause in 30 days.

ZAKO HK INC has agreed to enter into an Agreement with the County for a period not to exceed two years while the County goes out to bid formally to secure a vendor for the service.

- e) Why are other sources providing like goods or services unacceptable (please give a full meaningful explanation)?

The County conducted a formal solicitation that resulted in an Agreement with PFD Management for two concession areas: 1441 Schilling Place cafeteria since 2017 and 162 W Alisal, Jo's Cafe since 2018.

The County has chosen to terminate the current Agreement with PFD Management without cause in 30 days.

- f) What are the unique performance features REQUIRED (not merely preferred), and how would your requirement be inhibited without this particular item or service?

ZAKO HK INC is currently managing the daily operations for both County concession and has agreed to enter into an Agreement with the County for two years while a extensive solicitation is developing.

This arrangement ensures continuity of service for providing healthy, affordable, and enjoyable food options for breakfast, lunch, and snacks.

- g) Estimated Costs:

There are no direct costs to the County for the provided service.

4. Is there an unusual or compelling urgency associated with this project?

No

Yes (Please describe)

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**THE FOLLOWING TO BE COMPLETED BY THE REQUESTOR**

I hereby certify that:

Revised:  
March 1, 2006

1. I am an approved department representative, and am aware of the County's requirements for competitive bidding, as well as the criteria for justification for sole source/brand purchasing.
2. I have gathered the required technical information and have made a concentrated effort to review comparable and/or equal equipment.
3. The information contained herein is complete and accurate.
4. There is justification for sole source/brand purchasing noted above as it meets the County's criteria.
5. A sole source/brand purchase in this case would withstand a possible audit or a vendor's protest.

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Requested Signature

*Debra R. Wilson*

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10/11/2021 | 4:13 PM PDT

Date

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Authorized Signature by Department Head

*Dewayne Woods*

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10/12/2021 | 2:07 PM PDT

Date