# JUSTIFICATION FOR SOLE SOURCE OR SOLE BRAND
## Yosemite Community College District

**Type of Transaction:**  ___ **Purchase**              ___**Service**
                          ___ **Purchase – IT**         ___**Service - IT**
                          *(Computers, Software, Equipment)*   *(Computer maintenance, programming)*

**Justification for:**    ___ **Sole Source (Item or service only available from one vendor/source)**
                          ___ **Sole Brand (bids to be solicited for specified brand only)**

**Requested Vendor:** _____
**Requested Item/Service** _____
**Price (Estimated)** $_____
**Period of Performance:** _____          _____
                          **Date**        **to**        **Date**

**In accordance with the following CA State requirements:**

- PCC § 3400 states that a community college district cannot Limit "the bidding, directly or indirectly, to any one specific concern," when letting "contracts for the construction, alteration, or repair of public works";
- Public Contract Code section 20651 states that a community college district is required to competitively bid any purchase of equipment with a contract value over $92,600 or any procurement of public works with a contract value over $15,000; and
- California law provides that, "Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage…the statue require competitive bidding does not apply" (Hiller v. City of Los Angeles (1961) 197 Cal.App.2d 685, 694), and that public entities need not comply with competitive bidding process where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (Los Angels Dredging Company v. City of Long Beach (1930) 2 Cal. 348; Gradyon v. Pasadena Redevelopment Agency (1980) 104 CalApp.3d 63.

The Yosemite Community College District is committed to a program of active competition in the purchase of supplies, equipment and services, and require that all purchases/contracts from State and State-controlled funds be open and competitive. A sole source/brand request cannot be considered unless it clearly demonstrates that no other comparable products or sources can meet the functional needs of the College. Preference of a particular brand or source or time constraints may <u>not</u> be used as reasons for bypassing normal purchasing procedures. **Please be aware that submittal of this form with departmental signatures does not necessarily constitute approval.** Competitive procurement procedures will be followed unless the rationale presented clearly meets the District's criteria for sole source or sole brand processing.

1. **Briefly describe why the requested item(s) or service is needed.**

2. **What are the unique performance features of the product specified, or if the requested vendor is the ONLY vendor able to complete the work, what are the unique performance abilities of the vendor?**

3. **Why are the unique product features required, or why are the unique abilities of the vendor required?**

**4. Please list by name (brand or vendor) similar or competitive items/ services investigated and indicate why they were eliminated from consideration. Cost should *not* be a factor. (Note: Rejection can only be based on the inability to meet one or more of the required unique product features or performance abilities noted in response to question 2.)**

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**Note: Sole source or sole brand requests shall not be justified on the basis of:**

- **A lack of advance planning;**
- **Concerns related to the amount of funds available for the acquisition of the goods or services; or**
- **A previously non-competitively bid contract for which the price to the District was zero or substantially below fair market price and the results of such contract caused the sole source or sole brand to be required on future contracts.**

The drafting or application of specifications or solicitation requirements for goods or services that are unnecessarily restrictive in such a manner as to limit, directly or indirectly, competition to a single brand or single source does not provide for full and open competition, regardless of the number of sources solicited, and is prohibited. A "brand name or equal" is a competitive process that allows bidders to propose equivalent items.

**I am aware of Yosemite Community College District requirements for competitive bidding and the necessity for providing justification for limiting or eliminating opportunities for vendors who would like to do business with the District. I certify that the required technical information has been gathered and that a concentrated effort was made to review all comparable products and sources for this purchase/service as documented. I hereby certify the validity of the information contained herein and feel confident the justification meets the District's criteria and will withstand a vendor protest or audits by the State Auditor General or other agencies. In the event of a protest, I understand I may be called upon to personally appear at a hearing to substantiate the validity of the justification.**

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|---|---|---|
| **Requestor Signature** | **(Print or Type Name & Title)** | **Date** |
| **Dean, or VP** | **(Print or Type Name)** | **Date** |
| **College President** | **(Print or Type Name)** | **Date** |

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**Vice Chancellor Approval:**
**(Required for all Justifications)**

**VP College Administrative Services:**
**(Required $100K and over)**