



**CITY OF FORT WORTH
CHAPTER 252 EXEMPTION FORM**

Instructions: Fill out the entire form with detailed information. Once you have completed this form, provide it to the Purchasing attorneys for review. The attorneys will review the information you have provided to determine whether an exemption to Chapter 252's bidding requirements is defensible. Failure to provide sufficient information may result in follow up questions and cause a delay in the attorney's determination.

Section 1: General Information

Requesting Department: Police – Weapons Range

Name of Contract Manager: Kathryn Agee

Departmental Attorney: Jerris Mapes, Keanan M. Hall

Item or Service sought: Maintenance and Repair of the Air Ventilation System for the Weapons Range

Goods:

Service:

Anticipated Amount: \$150,000.00

Vendor: Carey's Heating and Air Conditioning, inc.

Current/Prior Agreement for item/service: Yes No

CSC or Purchase Order #: CSC 56215

Amount: \$157,250.00

Projected M&C Date: N/A

How will this item or service be used? This Service is needed in order to maintain, monitor and repair the Air Ventilation System for the Weapons Ranges. This system is responsible for circulation, filtration, heating and air conditioning of air in the weapons ranges so that the air while on the range is free of air-borne contaminants such as lead, other heavy metals and carbon monoxide, reducing the risk of contamination to personnel.

Has your department started a requisition or otherwise contacted the Purchasing Division related to obtaining this good/service? Yes No

If yes, please provide requisition number or brief explanation of contact with Purchasing Division: [DETAILED DESCRIPTION]

Section 2: Claimed Exemption and Justification (Other than sole source)

NOTE: For sole-source exemption requests, complete Section 3.

Please indicate the non-sole-source exemption you believe applies to the purchase and provide information to support its applicability. Please refer to the Exemption Primer (starting on page 5) for detailed information about common exemptions:

- A procurement necessary to preserve or protect the public health or safety of the City of Fort Worth's residents;
- A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- A procurement for personal, professional, or planning services;
- A procurement for work that is performed and paid for by the day as the work progresses;
- A purchase of land or a right-of-way;
- Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- A public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- A payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- Personal property sold:
 - at an auction by a state licensed auctioneer;
 - at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
 - by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
 - under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

- Services performed by blind or severely disabled persons;
- Goods purchased by a municipality for subsequent retail sale by the municipality;
- Electricity; or
- Advertising, other than legal notices.

Please provide details and facts to explain why you believe the exemption applies to the purchase. You may also attach documentation to this form. [INSERT DETAILED EXPLANATION AS TO HOW/WHY CLAIMED EXCEPTION APPLIES TO THIS PURCHASE]

Section 3: Claimed Sole-Source Exemption and Justification

NOTE: For all non-sole-source exemption requests, complete Section 2.

Please indicate the sole-source exemption you believe applies to the purchase and provide information to support its applicability. Please refer to the Exemption Primer (starting on page 5) for detailed information about common exemptions:

- items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
- films, manuscripts, or books;
- gas, water, and other utility services;
- captive replacement parts or components for equipment;
- books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
- management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

How did you determine that the item or service is only available from one source?

Sole source maintenance of the current proprietary system. The ventilation system was originally designed, installed and calibrated by Carey's Heating & Air Conditioning, Inc. to ensure safe operation of the range. Any service by another contractor can put officers at risk of harm due to the range ventilation system's proprietary design and programming.

Attach screenshots and provide an explanation of any independent research you conducted, through internet searches, searching cooperatives, or discussions with others knowledgeable on the subject matter that corroborate that the item is available only from a single source.

Following various internet searches, Carey's Heating and Air Conditioning does not have any cooperative agreements with BuyBoard, Texas Department of Information Resources, Omnia, TIPS, H-GAC, or Sourcewell.

Did you attach a sole source justification letter? Yes No

Describe the uniqueness of the item or service (e.g. compatibility or patent issues, etc.).
Carey's provides 24/7/365 remote technical support via the custom Direct Digital Control (DDC) controls graphical interface - built and programmed in-house by Carey's. This service includes answering system questions, providing assistance and diagnostics on range operations, and range remote troubleshooting, supporting the end user in maintaining a safe environment, and minimizing range down-time. Carey's will also provide an Annual Commissioning to bring the system back to the original balance and performance specifications. This will include checking all air flows, checking of the control system and resetting components necessary to restore the system back to original balance and performance. They will also train new range staff on operation of the range ventilation systems. Carey's performs all work to verify that the ranges are maintaining a negative pressure and not contaminating the building with lead by pushing contaminate out of range areas. No other company would have the ability to perform this service.

Section 4: Attorney Determination

With the facts provided by the department, is the use of the claimed exemption defensible if the City were to be challenged on this purchase? Yes No.

Was there anything attached to this form that was relied on in making this determination? Yes No.

If yes, please explain: Vendor sole source letter dated 2.11.26

Was there anything not included on this form or attached hereto that was relied on in making this determination? Yes No.

If yes, please explain: [EXPLAIN OUTSIDE SOURCE OF INFORMATION]

Approved By:

Amarna Muhammad
Amarna Muhammad / Jordan Alvarez
Assistant City Attorney

Date: 3.15.26

EXEMPTION FORM PRIMER

Below are explanations and examples of common exemptions that could apply to City purchases. If you have questions about the information provided or need additional information, please contact your department's assigned attorney or the appropriate purchasing attorney.

- **PUBLIC HEALTH & SAFETY** - A procurement necessary to preserve or protect the public health or safety of the municipality's residents;

Examples of activities that have been found to fall within this exception include ambulance services; solid waste collection and disposal; and first-responder safety equipment such as breathing apparatus for firefighters and bullet-proof vests for police officers.

- **UNFORESEEN DAMAGES** - A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

Examples of this type of procurement would include repairing or replacing roofs and windows damaged by hail or a tornado. But parts and services for routine maintenance or replacement of old, worn out roofs or windows would not meet this exception.

- **PERSONAL, PROFESSIONAL, OR PLANNING SERVICES**

Personal services are ones that are unique to the individual providing them. Therefore, personal services contract cannot generally be subcontracted or assigned.

Professional services are not defined under Chapter 252, so there is no precise definition to follow. While there is no universal definition of this term, "several cases suggest that [these types of services are] 'predominately mental or intellectual, rather than physical or manual.'" Tex. Atty Gen Op. JM-940 (1988) (*quoting Maryland Casualty Co. v. Cray Water Co.*, 160 S.W. 2d 102 (Tex. Civ. App.—Eastland 1942, no writ). The Texas Attorney General has also opined that "professional services" no longer includes only the services of lawyers, physicians, or theologians, but also those members of disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence. *Id.*

Facts needed to support a professional service exemption include the specialized requirements of that profession and the mental and intellectual skill required by the person while performing the service. Purchases of goods are not professional services.

- **SOLE SOURCE** – A procurement for items available only from one source

This exemption is commonly referred to as the sole source exemption. The fact that the vendor in question has the best price or can meet our timing needs does not make a purchase of a good or service available from only one source. A sole source does not exist solely on the basis of personal or departmental preference or a desire to keep all units the same brand or make. The information needed to support this exemption is documentation showing that

no other provider can provide the service or category of good except for the vendor you are proposing. Some examples of sole source purchases include (i) service agreements when only one vendor is authorized to work on the equipment by the manufacturer and allowing another vendor would void the warranty and (ii) purchase of a good that is copyrighted or trademarked and only provided by one vendor.