



**Date:** April 6, 2023  
**To:** Travis K. Dutton-Leyda, City of Santa Fe Purchasing Officer  
**From:** Monique Maes, Contracts Administrator *MM*  
**Via:** Rick Carpenter, BDD Facilities Manager *RC*  
**Subject:** Procurement Determination

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**ITEM:**

Request for contract approval with Snell and Wilmer for legal services

**BACKGROUND:**

In 2018 through the RFP process Snell and Wilmer was granted an award for Professional Services to provide legal representation in litigation matters. In 2022 an award for Sole Source was made with Snell & Wilmer. Currently, the BDD has several on-going projects that will require the unique services that Snell & Wilmer can provide. Because they have been the provider of representation through the litigation, Snell & Wilmer has unique knowledge and understanding of the BDD facility and of the defects requiring repair and refurbishment. It is most beneficial to continue utilization of this partnership to ensure a smooth transition with the repair projects at the BDD. There is only one firm that qualifies for this work. It is highly advantageous to continue this unique relationship with the continued Sole Source procurement of this vendor.

**ACTION REQUESTED:**

Procurement Determination for Sole Source.





# City of Santa Fe, New Mexico



## SOLE SOURCE REQUEST AND DETERMINATION FORM

This sole source request form **must** be submitted to the City of Santa, Purchasing Division for authorization, determination and processing by the Chief Procurement Officer (CPO).

*Please ensure to complete this form in its entirety - (\*) must be completed.*

\*Date: 03/23/2023

\*Prepared By Monique Maes

\*Title Contracts Administrator

\*Vendor Name Snell & Wilmer

\*Address: Tabor Center 1200 Seventeenth Street Suite 1900

\*City: Denver

\*State: CO

\*Zip Code: 80202-5854

\*Description of Goods/Service to be procured:

\*Estimated Cost: \$200,000.00

Term of Contract: One (1) to Four (4) year from award 2 years

\*Sole Source Request Justification Questions 1-3.

1. Explain the purpose/need of purchase. Ensure to include a thorough scope of work for the services, construction or items of tangible personal property (if this is an amendment request to an existing contract, attach current contract).

The purpose of this purchase is to continue the Sole Source procurement with Snell & Wilmer. The project they were to have worked on this fiscal year was delayed for most of the year. Their services are required in order to provide a smooth transition with the continuation of services from its litigation representation of the BDDDB. This vendor has all the information, documentation, testimonies, and expertise needed to assist the BDD as it moves forward with the Project's rehabilitation utilizing the funds received from the litigation .



# City of Santa Fe, New Mexico



2. Provide a detailed explanation of the criteria developed and specified by the department as necessary to perform and/or fulfill the contract.

The contractor has affirmed sole source for the services, construction or items of tangible personal property (*Attach memo from vendor*). Provide documentation of due diligence for other possible vendors/contractors to provide the requested services/goods proved unsuccessful; or

**Other:** explanation of the reasons, qualifications, proprietary rights or unique capabilities (*unique and how this uniqueness is substantially related to the intended purpose of the contract*) of the prospective contractor that makes the prospective contractor *the one source* capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the “best” source or the “least costly” source. Those factors do not justify a “sole source.”) *Unique and how this uniqueness is substantially related to the intended purpose of the contract.*

Snell & Wilmer L.L.P. worked for over four years and devoted thousands of hours to the investigation, documentation, litigation and settlement of the problems with and claims over the Project's performance failures. As a result, Snell & Wilmer L.L.P. has a unique knowledge and understanding of the Board's legal needs for the redesign and reconstruction of the Project. Continuing with Snell & Wilmer L.L.P. as the Board's outside counsel in this endeavor will provide a continuity of legal expertise and a smooth transition from investigation and litigation to redesign and repair.

3. Explain why other similar professional services, services, construction or item(s) of tangible personal property *cannot* meet the intended purpose of the contract.

Snell & Wilmer's knowledge is unique. No other attorney has the experience, knowledge or understanding of the flaws in the BDD project and the best methods of remedying the problems.



# City of Santa Fe, New Mexico



**\*Approvals:**

Based on the above facts, the City of Santa Fe Purchasing Officer has made the determination that the justification for a Sole Source procurement is in accordance with the State Procurement Code, Section 13-1-126 Sole source procurement., NMSA 1978 and shall be posted for a 30-day period prior to award.

Travis Dutton-Leyda 3/28/23  
Purchasing Officer for the \_\_\_\_\_ Date  
City of Santa Fe

**Pursuant to the State Procurement Code, Section 13-1-126 Sole source procurement., NMSA 1978, the 30-day posting period of the Notice of Intent to Award this Sole Source request was met and no obligation to the award to the above referenced contractor were received. *This Sole Source determination will be valid for a period of one (1) year from the date of the award.***

\_\_\_\_\_  
Purchasing Officer for the \_\_\_\_\_ Date  
City of Santa Fe

**\*Required Attachments:**

- \*Letter from Contractor acknowledging they are the only source (on their business letterhead and signed by the head of business or financial operations),***
- \*Quote from sole source Contractor***
- \*Agenda Item to be presented to City Council if over \$60,000 for Professional Services and \$60,000 for Goods and Non-Professional Services***

March 22, 2023

**VIA E-MAIL**

Monique Maes  
Contracts Administrator  
Buckman Direct Diversion  
341 Caja Del Rio Road  
Santa Fe, NM 87506

**Re: Buckman Direct Diversion Board / Snell & Wilmer L.L.P.  
Sole Source Procurement for FY 2023**

Dear Monique:

This letter is in reference to the May 12, 2022, memorandum captioned: "Sole Source Procurement for FY 2023" ("Memo") for the Buckman Direct Diversion Board ("Board"). Because of its extensive past background as the Board's counsel in the litigation with the owner's consultant and the design-builder, and its understanding of the issues with the Buckman Direct Diversion Project, Snell & Wilmer LLP is the only source for the services referred to in the Memo.

Snell & Wilmer L.L.P. worked for over four years and devoted thousands of hours to the investigation, documentation, litigation and settlement of the problems with and claims over the Project's failures. As a result, Snell & Wilmer L.L.P. has a unique knowledge and understanding of the Board's legal needs for the redesign and reconstruction of the Project. Continuing with Snell & Wilmer L.L.P. as the Board's outside counsel in this endeavor will provide a continuity of legal expertise and a smooth transition from investigation and litigation to redesign and repair.

Our budget for those services is \$180,000 for FY 2024. . It is anticipated that those services

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would be provided by Daniel Frost at the rate of \$560 per hour.

Please let me know if you have questions. We very much appreciate the continued opportunity to be of service.

Very truly yours,

Snell & Wilmer

Daniel R. Frost

cc: Nancy Long  
Rick Carpenter

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*Snell & Wilmer, Professional Services Agreement 2022/2023*  
4866-9429-4614