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**City of Anthony
Finance Department**

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**SOLE SOURCE JUSTIFICATION REQUEST FORM
PURSUANT TO NMSA 1978 SECTION 13-1-126.1 (2013)**

The City of Anthony hereby declares and notifies of its intent to procure and determines the following via sole source procurement:

Posting Date: 11/08/2023

I. Name of Agency: City of Anthony, New Mexico

**Bonnie Hidalgo, Chief Procurement Officer
575-882-2983 Ext. 301,**

**II. Name of Prospective Contractor:
Wilson & Company**

**Gabriel Villanueva
414 N. Main Street, Suite A | Las Cruces, NM 88001
505 948 5219 (direct) | 575 405 1437 (cell)**

Term of prospective contract:

III. Agency is required to state purpose/need of purchase and thoroughly list the services (scope of work), construction or items of tangible personal property of the prospective contract (if this is an amendment request to an existing contract, include current contract number issued by SPD):

The purpose of this sole source is to procure professional construction phase and bidding services for the South Anthony Arroyo Drainage Improvements project in Anthony, NM. The project aims to update the existing drainage design to align with the current conditions of Adam's Park, ensuring efficient stormwater management and drainage. The need for these services arises from the project's complexity, the changes that occurred during the park's construction, and the desire to minimize disruptions and risks associated with the volatile construction market and inflation rates.

Scope of Work:

Pre-Bidding Phase Services:

- a. **Project Assessment:** Conduct a comprehensive assessment of the existing drainage design and infrastructure to identify necessary updates and modifications to reach Maximum Allowable Construction Cost.
- b. **Cost Estimation:** Prepare revised cost estimates for the construction phase, considering material costs, labor, equipment, and any potential contingencies.
- c. **Bid Document Preparation:** Update comprehensive bid documents, including technical specifications, drawings, and contract terms, to facilitate a competitive bidding process.
- d. **Prequalification of Bidders:** Assist the City in establishing prequalification criteria for potential contractors and review their qualifications.
- e. **Advertisement for Bids:** Prepare and distribute bid advertisements, ensuring they meet all requirements.
- f. **Bidders Conference:** Organize and facilitate a pre-bid conference to address potential bidders' questions and clarify project requirements.

Bidding Phase Services:

- a. **Bid Evaluation:** Evaluate received bids for compliance with project specifications, completeness, and accuracy. Provide a comprehensive analysis of bid submissions, including recommendations for contract award.
- b. **Contract Negotiation:** Assist the City in contract negotiations with the selected contractor, including finalizing project costs, terms, and timelines.
- c. **Contract Award:** Facilitate the formal award of the construction contract to the selected contractor.

Construction Phase Services:

- a. **Construction Management:** Oversee and manage all aspects of the construction project, including scheduling, quality control, and contractor compliance with project specifications.
- b. **Progress Reporting:** Provide regular progress reports to the City, detailing project milestones, expenditures, and any deviations from the project plan.
- c. **Change Order Management:** Evaluate and process change orders as necessary, ensuring that all modifications to the original design are accurately documented and approved.
- d. **Quality Assurance/Quality Control:** Implement a robust quality assurance and quality control program to ensure the construction work meets the specified standards.
- e. **Risk Management:** Identify potential risks and develop strategies to mitigate them to minimize project delays and budget overruns.
- f. **Closeout Procedures:** Manage project closeout procedures, including final inspections, as-built drawings, and documentation of any outstanding items.

This comprehensive scope of work for construction phase and bidding services will ensure that the South Anthony Arroyo Drainage Improvements project progresses smoothly from the bidding phase through to successful completion, meeting the project's purpose and need effectively.

- IV. Provide a detailed explanation of the criteria developed and specified by the agency as necessary to perform and/or fulfill the contract and upon which the state agency reviewed available sources. (Do not use “technical jargon;” use plain English. Do not tailor the criteria simply to exclude other contractors if it is not rationally related to the purpose of the contract.)

The City of Anthony, NM, has previously contracted the services of Wilson & Company to develop specific design components of the South Anthony Arroyo Drainage Improvements. The expertise in the original design is essential for continuity from the design to the construction phase due to the multiple design components that would require additional efforts if another engineering company were to take on the project. Given the multiple past phases and future changes during the construction phase of Adam’s Park, it is imperative that the selected contractor has an in-depth understanding of the current park conditions, and Wilson & Company's prior involvement guarantees this. The need to seamlessly integrate new requirements arising from Adam’s Park construction changes is another critical factor, and engaging Wilson & Company ensures efficient integration. Moreover, maintaining project continuity from the original design to the updated one is vital, and Wilson & Company's involvement minimizes potential delays.

- V. Provide a detailed, sufficient explanation of the reasons, qualifications, proprietary rights or unique capabilities 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.”)

Wilson & Company is qualified to be the sole source for this project due to their qualifications and capabilities gained through the previous development of the project. They possess in-depth knowledge of the original design, crucial for a seamless update. Their familiarity with the current park conditions, including changes during construction, ensures the needed level accuracy. Efficiently integrating their knowledge into this new phase of the project is possible because of their prior experience. Maintaining project continuity minimizes delays, and their expertise in stormwater management is evident from past work. This minimizes risks associated with bringing in a new engineer and keeps the project away from unnecessary delays. Their access to historical data and a collaborative history with the City of Anthony further enhance their suitability. These reasons collectively establish Wilson & Company as the sole source capable of providing the required professional service for this project.

- VI. Provide a detailed, sufficient explanation of how the professional service, service, construction or item(s) of tangible personal property is/are *unique and how this uniqueness is substantially related to the intended purpose of the contract*.

The professional service of updating the South Anthony Arroyo Drainage

Improvements design is uniquely tied to the original design and the current conditions of Adam's Park. This uniqueness is substantially related to the intended purpose of the contract for several reasons. Firstly, the original design, performed by Wilson & Company, contains intricate details and specifications that are not readily available to other contractors. This original design forms the foundation upon which any updates must be built. Secondly, the changes that occurred during the construction of Adam's Park, such as the completion of the baseball field, have altered the project landscape significantly. Understanding these changes and how they affect the drainage system is crucial for a successful update. Thirdly, the need to seamlessly integrate these new requirements and modifications into the design requires an intimate knowledge of both the original design and the current park conditions. Any deviation from the original design could lead to inefficiencies or errors in the updated design, making it essential to have a contractor intimately familiar with both aspects. In conclusion, the uniqueness of this professional service lies in its direct connection to the original design and the specific conditions of Adam's Park, both of which are inextricably tied to the intended purpose of the contract, which is to provide an accurate and effective continuation of the construction phase of the South Anthony Arroyo Drainage Improvements design.

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

Other similar professional services, services cannot meet the intended purpose of this contract for several compelling reasons. Firstly, engaging another engineer to learn the intricacies of the project before proceeding with the bidding and construction phase would result in significant additional cost. This cost arises from the time and resources required for the new engineer to become familiar with the project's history, specifications, and current conditions, which are all unique to this particular site and design. This learning curve could substantially inflate project expenses.

Furthermore, given the current volatile construction market and inflation rates, time delays in project execution are highly detrimental. Engaging a new contractor would inevitably lead to project delays due to the learning process, potentially putting the project in jeopardy. Construction market volatility can result in rapidly changing material and labor costs, which, when combined with project delays, can significantly escalate the project's overall cost.

In essence, the uniqueness of this project and the necessity for a seamless transition from the original design to the updated one make it impractical to engage a different engineer. The associated additional costs, coupled with potential project delays, pose a considerable risk to the project's successful and timely completion, particularly in the current unpredictable construction market with escalating inflation rates. Therefore, Wilson & Company's continuity and expertise are crucial for mitigating these risks and ensuring the project's overall success.

VIII. Provide a narrative description of the agency's due diligence in determining the basis for the procurement, including procedures used by the agency to conduct a review of

available sources such as researching trade publications, industry newsletters and the internet;; contacting similar service providers; and reviewing the State Purchasing Divisions' Statewide Price Agreements. Include a list of businesses contacted (***do not state that no other businesses were contacted***), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

In the process of determining the basis for procuring the professional service required for the bidding services and construction phase the South Anthony Arroyo Drainage Improvements design, our agency conducted thorough due diligence. We reached out to at least three engineering sources in our quest to obtain any potential service providers capable of fulfilling the contract. Due to the current status of the project, none of the firms that were contacted were inclined to partake in the project.

Based on the declined responses obtained, this determination is based on the following key factors: Wilson & Company's already invested in-depth knowledge and experience in the original design and project intricacies, their familiarity with current site conditions, their ability to efficiently integrate updates into the design, and the critical importance of project continuity and risk mitigation. Consequently, our agency has established that no other business, based on our evaluations and documented efforts, was interested in providing their services due to the current status of the project. Also, being that Wilson has already sealed the design no other engineering servicer would execute this contract.

The following firms were contacted October 30, 2023 via email, all declined:
Santec, 3831 E Lohman Ave #200 Las Cruces, NM 88011
FXSA, 1130 Montana Ave El Paso, TX 79902
Bohannon Houston, 25 S Telshor Blvd C103 Las Cruces, NM 88011

APPROVALS:

Based on the above facts, the Purchasing Department has made the determination that the justification for the Sole Source procurement is in accordance with NMSA 1978 Section 13-1-126 and will be posted for a 30-day period prior to award.

Certified by:

Date: 11-08-2023



Bonnie Hidalgo, Chief Procurement Officer