



State of New Mexico  
General Services Department  
Purchasing Division

Price Agreement Amendment

Awarded Vendor  
4 Vendors

Telephone No.

Price Agreement Number: 70-805-17-15683

Price Agreement Amendment No.: Three

Term: May 24, 2017 – May 23, 2021

Ship To:  
New Mexico Department of Transportation  
Various Locations

Procurement Specialist: Raelynn Lujan

Telephone No.: (505) 827-0484

Invoice:  
New Mexico Department of Transportation  
Various Locations

Email: raelynn.lujan@state.nm.us

For questions regarding this Price Agreement please contact:  
Angela Martinez 505-570-7940

Title: Surface Treatment Aggregate District 2

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from May 24, 2020 to May 23, 2021 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

A handwritten signature in cursive script, appearing to read "Valerie Pauer for".

Mark Hayden, New Mexico State Purchasing Agent

Date: 5/24/2020



State of New Mexico  
General Services Department  
Purchasing Division

Price Agreement Amendment

Awarded Vendor  
4 Vendors

Telephone No.

Price Agreement Number: 70-805-17-15683

Price Agreement Amendment No.: Two

Term: May 24, 2017 – May 23, 2020

Ship To:  
New Mexico Department of Transportation  
Various Locations

Invoice:  
New Mexico Department of Transportation  
Various Locations

For questions regarding this Price Agreement please contact:  
Angela Martinez 505-570-7940

Procurement Specialist: Raelynn Lujan *RL*

Telephone No.: (505) 827-0484

Email: raelynn.lujan@state.nm.us

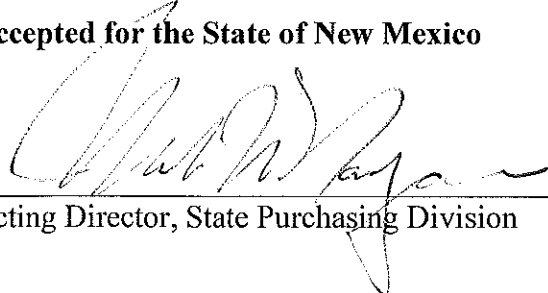
Title: Surface Treatment Aggregate District 2

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from May 24, 2019 to May 23, 2020 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

  
\_\_\_\_\_  
Acting Director, State Purchasing Division

Date: 2/27/2019

*nm*



**State of New Mexico  
General Services Department  
Purchasing Division**

**Price Agreement Amendment**

**Awarded Vendor:**  
**4 Vendors**

**Telephone No.:** \_\_\_\_\_

Price Agreement Number: 70-805-17-15683

Price Agreement Amendment No.: One

Term: May 24, 2017-May 23, 2019

**Ship To:**  
**New Mexico Department of Transportation**  
**Various Locations**

**Invoice:**  
**New Mexico Department of Transportation**  
**Various Locations**

**For questions regarding this Price Agreement please contact:**  
**Angela Martinez 505-827-5127**

Procurement Specialist: Eric Sanchez

Telephone No.: (505) 827-0554

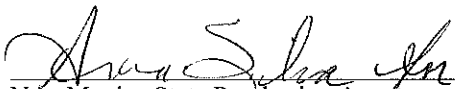
**Title: Surface Treatment Aggregate District 2**

**This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.**

**In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from May 24, 2018 to May 23, 2019 at the same price, terms and conditions.**

**The provisions of the Price Agreement shall remain in full force and effect, except as modified by this amendment.**

**Accepted for the State of New Mexico**

  
New Mexico State Purchasing Agent

Date: 5/7/18



# State of New Mexico General Services Department

## Price Agreement

**Awarded Vendor:**  
**4 Vendors (see page 7)**

**Telephone No.:**

Price Agreement Number: 70-805-17-15683

Payment Terms: Net 30

F.O.B.: Destination

Delivery: As Requested

**Ship To:**  
**New Mexico Department of Transportation**  
**Various Locations**

Procurement Specialist: Eric Sanchez

Telephone No.: 505-827-0554

**Invoice:**  
**New Mexico Department of Transportation**  
**Various Locations**


**For questions regarding this contract please contact:**  
**Angela Martinez 505-827-5127**

**Title: Surface Treatment Aggregate District 2**

**Term: May 24, 2017-May 23, 2018**

**This Price Agreement is made subject to the "terms and conditions" shown on the reverse side of this page, and as indicated in this Price Agreement.**

**Accepted for the State of New Mexico**

  
\_\_\_\_\_  
New Mexico State Purchasing Agent

Date: 5/18/17

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**Terms and Conditions**

(Unless otherwise specified)

1. **General:** When the State Purchasing Agent or his/her designee issues a purchase document in response to the Vendor's bid, a binding contract is created.
2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.
3. **Assignment:**
  - a. Neither the order, nor any interest therein, nor any claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in Subparagraph 3b or as expressly authorized in writing by the State Purchasing Agent or his/her designee. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
  - b. Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. **State Furnished Property:** State furnished property shall be returned to the State upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.
5. **Discounts:** Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within twenty (20) days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise invoice, whichever is later.
6. **Inspection:** Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with specifications shall be removed at the Vendor's risk and expense, promptly after notice of rejection.
7. **Inspection of Plant:** The State Purchasing Agent or his/her designee may inspect, at any reasonable time, the part of the Contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. **Commercial Warranty:** The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.
9. **Taxes:** The unit price shall exclude all state taxes.
10. **Packing, Shipping and Invoicing:**
  - a. The State's purchasing document number and the Vendor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
  - b. The Vendor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.
  - c. Invoices must be submitted to the using agency and NOT the State Purchasing Agent.
11. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor,

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such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

**12. Non-Collusion:** In signing this bid the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or his/her designee.

**13. Nondiscrimination:** Vendor doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).

**14. The Procurement Code:** Sections 13-1-28 through 13-1-99 NMSA 1978, imposes civil and criminal penalties for its violation. In addition the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

**15.** All bid items are to be NEW and of most current production, unless otherwise specified.

**16. Payment for Purchases:** Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

**17. Workers' Compensation:** The Contractor agrees to comply with state laws and rules pertaining to Workers' Compensation benefits for its employees. If the Contractor fails to comply with Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the contracting agency.

**18.** Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope. Failure to label bid envelope will necessitate the premature opening of the bid in order to identify the bid number.

**19. Contractor Personnel:** Personnel proposed in the Contractor's written proposal to the Procuring Agency are considered material to any work performed under this Price Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

**20. Subcontracting:** The Contractor shall not subcontract any portion of the Price Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontracting obligate payment from the Agency.

**21. Records and Audit:** The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Price Agreement's term and effect, and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the Agency, State Purchasing Division, Department of Finance and Administration, and for Information Technology contracts, State Chief Information Officer. The Agency shall have the right to audit billings, both before and after payment. Payment for services under this Price Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

**22.** The foregoing requirements for Contractor Personnel, Subcontracting, and Audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.

### **New Mexico Employees Health Coverage**

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for its New Mexico Employees and offer that health insurance to its New Mexico Employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceeds \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of its New Mexico Employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all of its New Mexico Employees of the availability of State publicly financed health care coverage programs by providing each of its New Mexico Employees with, as a minimum, the following web site link to additional information: <http://insurennewmexico.state.nm.us/>.

D. For purposes of this Paragraph, the following terms have the following meanings:

- (1) "New Mexico Employee" means any resident of the State of New Mexico employed by Contractor who performs the majority of the employee's work for Contractor within the State of New Mexico, regardless of the location of Contractor's office or offices; and
- (2) "offer" means to make available, without unreasonable restriction, enrollment in one or more health coverage plans and to actively seek and encourage participation in order to achieve the goals of Executive Order 2007-049. This could include State publicly financed public health coverage programs such as *Insure New Mexico!*

### **New Mexico Pay Equity Initiative**

Contractor agrees, if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees, contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts that are up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report it self.

Two (2) copies of the Pay Equity Worksheet shall be submitted prior to Award by the prospective Awarded Vendor.

The PE10-249 and PE250 worksheet is available at the following website:  
<http://www.generalservices.state.nm.us/statepurchasing/GuidesProcedures.aspx>



## **Department Price Agreement**

### **Article I – Statement of Work**

Under the terms and conditions of this Price Agreement, the using agency may issue orders for items and/or services described herein.

The terms and conditions of this Price Agreement shall form a part of each order issued hereunder.

The items and/or services to be ordered shall be listed under Article IX – Price Schedule. All orders issued hereunder will bear both an order number and this Price Agreement number. It is understood that no guarantee or warranty is made or implied by either the New Mexico State Purchasing Agent or the user that any order for any definite quantity will be issued under this Price Agreement. The Contractor is required to accept the order and furnish the items and/or services in accordance with the articles contained hereunder for the quantity of each order issued.

### **Article II –Term**

The term of this Price Agreement for issuance of orders shall be as indicated in specifications.

### **Article III –Specifications**

Items and/or services furnished hereunder shall conform to the requirements of specifications and/or drawings applicable to items listed under Article IX - Price Schedule. Orders issued against this schedule will show the applicable price agreement item(s), number(s), and price(s); however they may not describe the item(s) fully.

### **Article IV – Shipping and Billing Instructions**

Contractor shall ship in accordance with the instructions of this form. Shipment shall be made only against specific orders which the user may place with the contractor during the term indicated in Article II – Term. The Contractor shall enclose a packing list with each shipment listing the order number, price agreement number and the commercial parts number (if any) for each item. Delivery shall be made as indicated on page 1. If vendor is unable to meet stated delivery the State Purchasing Agent must be notified.

### **Article V - Termination**

This Price Agreement may be terminated by either signing party upon written notice to the other at least thirty (30) days in advance of the date of termination. Notice of termination of the price agreement shall not affect any outstanding orders.

### **Article VI – Amendment**

This Price Agreement may be amended by mutual agreement of the New Mexico State Purchasing Agent or his/her designee and the Contractor upon written notice by either party to the other. An amendment to this Price Agreement shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon, and as published by the New Mexico State Purchasing Agent or his/her designee. Amendments affecting price adjustments and/or the extension of a price agreement expiration date are not allowed unless specifically provided for in the bid and price agreement specifications.

### **Article VII – Issuance or Orders**

Only written signed orders are valid under this Price Agreement.

### **Article VIII – Packing (if applicable)**

Packing shall be in conformance with standard commercial practices.

### **Article IX – Price Schedule**

Prices as listed in the price schedule hereto attached are firm.

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Price Agreement #: 70-805-17-15683

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**Awarded Vendors:**

(AA) 0000045365  
Brasier Asphalt, Inc.  
PO Box 19095  
Albuquerque, NM 87119  
505-873-1322

(AB) 0000046036  
Constructors, Inc.  
3003 S. Boyd Drive  
Carlsbad, NM 88220  
575-941-3552

(AC) 0000054375  
FNF Construction, Inc.  
115 S. 48<sup>th</sup> Street  
Tempe, AZ 85281  
602-619-5181

(AD) 0000090285  
GM Emulsion, LLC  
5935 Agua Fria  
Santa Fe, NM 87507  
505-471-9981

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Establish a Price Agreement for the New Mexico Department of Transportation (NMDOT), District 2, for the application of surface treatment aggregate.

This price agreement is applicable and available for use by New Mexico Department of Transportation, New Mexico State Agencies and New Mexico Local Public Bodies.

**Term:**

The term of this Price Agreement shall be for one (1) year from date of award with the option to extend for a period of three (3) additional years, on a year-to-year basis, by mutual agreement of all parties and approval of the New Mexico State Purchasing Agent at the same price, terms and conditions. This Price Agreement shall not exceed four (4) years.

**Escalation/Reduction Clause:**

In the event of a product cost increase, an escalation request will be reviewed by this office on an individual basis. This measure is not intended to allow any increase in profit margin, only to compensate for an actual cost increase.

Effective dates for increase will not be any sooner than fifteen days from the date the written request is received by this office. To facilitate prompt consideration, all requests for price increase must include all information listed below:

1. Contract Item Number
2. Current Item Price
3. Proposed New Price
4. Percentage of Increase
5. Mill/Supplier Notification of price increase indicating percentage of increase including reason for increase.

This escalation policy will be terminated as soon as the market stabilizes. Should you have questions concerning this policy, please contact the State Purchasing Division.

**General:**

The work shall consist of all labor, equipment and materials to place Department furnished aggregate and emulsion materials to construct a chip sealed roadway, complete in place and other miscellaneous work. The work shall be performed in the following order: preparing the roadway; applying the emulsion and aggregate; rolling the aggregate; brooming the aggregate when specified; and sweeping up and disposing of excess aggregate off of the job site.

Project shall be completed in a timely manner. The Engineer shall contact awarded Contractor with a written notice to proceed with a minimum five (5) day notice prior to start of the project due to temperature restraints in the specifications.

**Pre-qualification:**

The Contractor shall: **a)** have had a minimum of five (5) years' experience in the application of the polymer modified asphalt emulsion as applied to chip seal, or be capable of demonstrating sufficient technical expertise in the application of chip seal; and **b)** have successfully completed similar projects to the satisfaction of their clients.

**Application:**

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All incidental work such as surfacing of driveway aprons and returns shall be done concurrently with the surfacing of the street or road, if applicable. The chip seal shall be applied 0"-2" from the lip of the gutter. Where a curb exist without gutter, the chip seal shall be applied 0"-2" from the face of curb. Where no curb or gutter exists, the chip seal shall be applied from edge of pavement to edge of pavement. The edges of the limits of the chip seal application on both sides of the street shall be maintained in a neat and uniform line. Chip seal shall not be applied on concrete gutters or pads unless directed by the Engineer. The chip seal shall be applied when ambient temperature is above sixty degrees Fahrenheit (60° F) and rising. Chip seal shall not be placed if the ambient temperature during the curing period is expected to be below forty degrees Fahrenheit (40° F) in a twenty-four (24) hour period. Chip seal shall not be placed on the surface of a street after 6:00 p.m. during the work day unless otherwise authorized by the Engineer.

The areas to be chip sealed shall have the Department furnished emulsion applied with a distributor truck to the pavement surface at a rate of 4.40-0.50 gallons per square yard. The actual emulsion application rate shall be required by the surface demands and aggregate used. The application of the emulsion shall be determined by the manufacturer's representative and/or the Engineer.

The emulsion temperature when applied shall be between one hundred twenty five through one hundred fifty degrees Fahrenheit (125-150° F). For smaller areas the emulsion may be applied with a wand.

The aggregate cover rock shall be applied at a rate of 22-35 lbs./Sq. Yd. after the emulsion has broken or as directed by the Engineer.

The aggregate cover shall be allowed to set up for a duration determined by the Engineer prior to sweeping and pick up operations.

**Fog Seal:**

Department furnished emulsion for fog seal shall be applied at an approved rate (.10 to .12 gallons per square yard) the following day or as directed by the Engineer.

**Traffic Control Devices, Methods and Pavement Markings:**

All devices, methods and markings shall conform Section 702 and 704 respectively of the current NMDOT Standard Specifications for Highway and Bridge Construction.

Provide for traffic control in accordance with the manual on Uniform Traffic Control Devices (MUTCD), current edition and NMDOT Standard Specifications for Highway and Bridge Construction, and any applicable special provisions. Contractor shall submit a Traffic Control Permit Application and Cad Drawings, on 11" X 17" sheets, of his proposed Traffic Control Plan to the District Traffic Engineer at least two (2) weeks prior to the construction start date. The Contractor shall not begin work without an approved Traffic Control Plan and Permit.

Contractor shall install temporary raised pavement markers per the Engineer. Spacing shall be forty-foot (40') intervals; the alignment shall be measured from a control (back of curb or other parallel).

**Surety bond:**

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Bid security in the form of surety bond executed by a surety company authorized to do business in the State of New Mexico in the amount of ten thousand dollars (\$10,000) or equivalent of cash by means of a cashier's check or in a form satisfactory to the owner, must accompany each bid.

**Performance and Materials Bond:**

Prior to issuance of orders, the Contractor will provide a Performance Bond and Payment Materials Bond securing labor and material equal to one hundred percent (100%) of each order. Said bonds must be provided to the requestor within ten (10) calendar days after notification by the Department and are to be filed with the user agency's purchasing office. Failure to comply shall result in order being issued to another vendor and difference being charged back to the awarded Contractor.

**Mobilization:**

The Contractor must designate one (1) home office in the State of New Mexico for the terms of this Price Agreement. The Contractor shall furnish the District Engineer or the District Engineer's designee with mileage for one mobilization of thirty (30) or more miles one (1) way. No payment shall be made for moves less than thirty (30) miles. Payment will be for one (1) way movement only one time.

**Specified:**

1. Contractor shall be responsible for locating a suitable equipment storage area for the storage of his equipment during the nighttime hours and non-working hours. No storage of equipment will be allowed within the highway right-of-way unless approved by the District Engineer or his designee. If such approval is granted, the equipment shall be stored out of the clear zone to allow for a safe recovery area.
2. Provide competent supervision and skilled personnel to carry on all work in progress.
3. Comply with all local, state and federal regulation governing safety, health and all sanitation. The contractor shall provide all safe-guards, safety devices and protective equipment, and take any other needed actions necessary to protect the life and health of employees on-the-job and the safety of the public, and to protect property in connection with the performance of work by this Price Agreement.
4. The Contractor shall be responsible for the project being completed in accordance with the specifications.
5. Attend a pre-construction conference set up by the designated Department representative.
6. Submit a work schedule prior to construction.

NMDOT will provide an Engineer or designee to inspect all operations. The Engineer or designee will be responsible for enforcement and interpretation of the specifications, and his decision shall be final.

**The Contractor agrees:**

The Contractor shall indemnify and hold harmless the State, its officers and employees against liability, claims, damages, losses, or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from, Contractor's and/or its employees, own negligent acts or omissions while Contractor, and/or its employees perform or fail to perform its obligations and duties under the terms and conditions of this Price Agreement. This Save Harmless and Indemnification Clause is subject to the immunities, provisions, and

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limitations of the Tort Claims Act (Section 41-4-1, et seq., NMSA 1978 Comp. and Section 56-7-1 NMSA 1978 Comp.) and any amendments thereto.

It is specifically agreed between the parties executing this Price Agreement that it is not intended by any of the provisions of any part of the Price Agreement to create the public or any member hereof a third party beneficiary or to authorize anyone not a party to the Price Agreement to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to properties and/or other claims whatsoever pursuant to the provisions of this Price Agreement.

The Contractor shall be considered an independent Contractor and not an employee of the State of New Mexico; however, directions as to time and place of performance and compliance with rules and regulations may be required by the using agency.

Contractor agrees to be bound by all provisions, requirements, specifications, plans, and time-tables contained or referenced in this Price Agreement.

The Contractor agrees to follow provisions of the U.S. Department of Transportation's Manual on Uniform Traffic Control Devices, (MUTCD), most recent edition, which shall apply to all supervision and work to be performed; provide for competent supervision and sufficient number of skilled personnel to effectively carry on all work in progress pertaining to highway projects.

**The Contractor further agrees:**

- a. To furnish all materials, supplies, equipment, labor and tools to perform the work specified;
- b. To be responsible for all clean-up of materials on roads and street resulting from the performance of this work;
- c. To provide for traffic control in accordance with the New Mexico Manuals and Specifications.

**Wage Rate Decision:**

Prior to the issuance of work or a task order in excess of sixty thousand dollars (\$60,000), the NMDOT District Office or Program must obtain a wage decision from the New Mexico Department of Workforce Solutions specific to that work or task order.

Wage decision may be obtained at the following link:

[www.dws.state.nm.us/Labor\\_Relations/publicworks.html](http://www.dws.state.nm.us/Labor_Relations/publicworks.html)

**Contractor Licenses:**

Contractor Note: No person shall act as a Contractor without a license issued by the Construction Industries Division (CID) classified to cover the type of work to be undertaken. No bid on a contract shall be submitted unless the Contractor has a valid GA-1 or GA-98 license issued by the CID to bid and perform the type of work to be undertaken, § 60-13-12, NMSA 1978.

Contractor's License No. \_\_\_\_\_

The Contractor shall produce and maintain at the Contractor's expense insurance of the kinds and in the amounts herein provided. This insurance shall be provided insurance companies authorized to do business in New Mexico and shall cover all operation under the contract, whether performed by the Contractor, the Contractor's agents, employees or by subcontractors. All insurance provided shall remain in full force and effect for the entire period of the work, up to and including final acceptance, and the removal of all equipment and employees, agents and subcontractors.

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Attention of the bidder is directed to the current requirements as to resident Contractor's preference, per Section 13-4-3 NMSA 1978. The provisions of Sections 13-4-1 through 13-4-4 NMSA 1978 shall not apply to this Price Agreement.

**Insurance Requirements**

The Contractor shall procure and maintain at the Contractor's expense insurance of the kinds and in amounts herein provided. This insurance shall be provided by insurance companies authorized to do business in New Mexico and shall cover all operations under the Price Agreement, whether performed by the Contractor, the Contractor's agents or employees or by subcontractors. All insurance provided shall remain in full force and effect for the entire period of the work, up to and including final acceptance, and the removal of all equipment an employees, agents and subcontractors therefrom.

**A. Public Liability and Automobile Liability Insurance:**

1. General Liability: bodily injury liability and property damage liability insurance applicable in full to the subject project shall be provided in the following minimum amounts:

Body Injury Liability: \$1,000,000 each person; \$2,000,000 each occurrence (annual aggregate)

Property Damage Liability: \$2,000,000 each occurrence (annual aggregate)

- a. The policy to provide this insurance is to be written on a Comprehensive General Liability Form or Commercial General Liability Form which must include the following:
    - 1) Coverage for liability arising out of the operation of independent Contractors;
    - 2) Completed operation coverage; and
    - 3) Attachment of the Broad Form Comprehensive General Liability Endorsement.
  - b. In the event that the use of explosives is a required part of the Price Agreement, the Contractor's insurance must include coverage for injury to or destruction of property arising out of blasting or explosion.
  - c. In the event that a form of work next to an existing building or structure is a required part of the Price Agreement, the Contractor's insurance must include coverage for injury to or destruction of property arising out to the collapse of or structural injury to building or structures due to excavation, including burrowing, filling or backfilling in connection therewith, or to tunneling, cofferdam work or caisson work or to moving, shoring, underpinning, razing or demolition of building or structures or removal or rebuilding of structural supports thereof.
  - d. Coverage must be included for injury to or destruction of property arising out of injury to or destruction of wires, conduits, pipes, mains, sewers or other similar property or any apparatus in connection therewith below the surface of the ground, if such injury or destruction is caused by or occurs during the use of mechanical equipment for the purpose of excavating, digging, or drilling, or to injury to or destruction of property at any time resulting therefrom.
2. Automobile Liability Insurance coverage for the Contractor (whether included in the policy providing General Liability Insurance or in a separate policy) must provide liability for the ownership, operation and maintenance of owned, non-owned, and hired cars. The limits of liability for Automobile Liability Insurance shall be provided in the following amounts:

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Bodily Injury Liability: \$1,000,000 each person; \$2,000,000 each occurrence (annual aggregate)  
Property Damage Liability: \$2,000,000 each occurrence (annual aggregate)

- B. Worker's Compensation Insurance:** The Contractor shall carry Worker's Compensation Insurance or otherwise fully comply with the provision of the New Mexico Workman's Compensation Act and Occupational Disease Disablement Law.

If the Contractor is an "owner-operator" of such equipment, it is agreed that the State of New Mexico assumes no responsibility, financial or otherwise, for any injuries sustained by the "owner-operator" during the performance of said Price Agreement.

- C. Certificate of Insurance/Department as Additional Insured:** The Contractor being awarded the Price Agreement shall furnish evidence of Contractor's insurance coverage by a Certificate of Insurance. The Certificate of Insurance shall be submitted prior to award of the Price Agreement.

The Contractor shall have the New Mexico Department of Transportation (NMDOT) named as additional insured on the Comprehensive General Liability Form or Commercial General Liability Form furnished by the Contractor pursuant to Paragraph A. 1. and A. 2. of this subsection. The Certificate of Insurance shall state that the coverage provided under the policy is primary over any other valid and collectible insurance.

The Certificate of Insurance shall also indicate compliance with these specifications and shall certify that the coverage shall not be changed, canceled or allowed to lapse without giving the Department thirty (30) days prior written notice. Also, a Certificate of Insurance shall be furnished to the Department on renewal of a policy or policies as necessary during the terms of this Price Agreement.

The Department shall not issue a **Notice to Proceed** until such time as the above requirements have been met.

- D. Umbrella Coverage:** The insurance limits cited in the above paragraphs are minimum limits. This specification is no way intended to define what constitutes adequate insurance coverage for an individual Contractor. The Department will recognize following form excess coverage (umbrella) as meeting the requirements of Subsection A. 1. a. of this Price Agreement should such insurance otherwise meet all requirements of such subsections.
- E. Other Required Insurance:** The Contractor shall procure and maintain, when required by the Department, form and types of Bailee Insurance such as, but not limited to, Builder's Risk Insurance, Contractor's Equipment Insurance, Rigger's Liability Property Insurance, etc., in an amount necessary to protect the Department against claims, losses, and expenses arising from the damage, disappearance or destruction of property of others in the care, custody or control of the Contractor, including property of others being installed, erected or worked upon by the Contractor, his agents, or subcontractors.
- F. Railroad Insurance:** In the event that railroad property is affected by the subject Price Agreement, the Contractor, in addition to the above requirements, shall be required to furnish a Railroad Protective Liability Policy in the name of the railroad company involved. In addition, on those rails that are used



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by the National Railroad Passenger Corporation (NRPC), the Contractor will also obtain a Railroad Protective Liability Policy in the name of NRPC.

The limits of liability for the Railroad Protective Liability Policy (or policies) must be negotiated with the railroad company on a hazard and risk basis. In no event will the limits exceed the following:

Bodily Injury Liability, Property Damage Liability: \$2,000,000 each occurrence (annual aggregate)  
Liability and Physical Damage to Property: \$6,000,000 aggregate (annual aggregate)

The limits of liability stated above apply to the coverage's as set forth in the Railroad Protective Liability Endorsement Form, subject to the terms, conditions, and exclusions found in the form. The policy must afford coverage as provided in the Standard Railroad Protective Liability Endorsement Form (AASHTO form).

The conditions listed in the above paragraphs are an integral part of this Price Agreement and shall be the conditions regulating the performance of any agreement between the Contractor and the State of New Mexico and any commissions, divisions, or departments thereof.

**Evaluation for Award:**

Multiple vendors to serve the best interest of user agency.

**Payment and invoicing:**

The prices quoted herein represent the total compensation to be paid by the State for the goods and/or services provided including any and all labor, equipment, tools, materials, taxes, permits, licenses, or other costs necessary to complete the service or goods provided.

Within fifteen (15) days after the date the department receives written notice from the Contractor that payment is requested for services, construction or items of tangible personal property delivered on site and received, the department shall issue a written certification of complete or partial acceptance or rejection of the services, construction or items of tangible personal property. If the department finds that the services, construction or items of tangible personal property are not acceptable, it shall, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, provide to the Contractor a letter of exception explaining the defect or objection to the services, construction or delivered tangible personal property along with details of how the Contractor may proceed to provide remedial action. Upon certification by the department that the services, construction or items of tangible personal property have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of one and one-half percent (1-1/2%) per month. For purchases funded by state or federal grants to local public bodies, if the public body has not received the funds from the federal or state funding agency, but has already certified that the services or items of tangible personal property have been received and accepted, payments shall be tendered to the Contractor within five (5) working days of receipt of funds from that funding agency.

Final payment shall be made within thirty (30) days after the work has been approved and accepted by the department's secretary or his/her duly authorized representative. The Contractor agrees to comply with state laws and rules pertaining to worker's compensation insurance coverage for its employees. If Contractor fails

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to comply with the Worker's Compensation Act and applicable rules when required to do so, the contract may be canceled effective immediately.

Vendor is requested to indicate Federal Tax ID Number, NM Gross Receipts Number of Social Security Number: \_\_\_\_\_.

**Conditions and Specifications:**

The conditions and specifications set out in the Invitation to Bid are inseparable and indivisible. Any contractor, by submitting a bid, agrees to be bound by all such conditions or specifications. All conditions and specifications in the Invitation to Bid and all other documents required to be submitted, shall be returned by the contractor in his bid package. Failure to do so or an attempt to vary or change the conditions or specifications of the Invitation to Bid, shall at the discretion of the State, constitute grounds for rejection of the entire bid. The State will not accept any added stipulation by the vendor.

**Equipment:**

The following equipment to be used for the chip seal shall be as follows;

- A. Two (2) asphalt distributors for application of the emulsion shall have a full circulation spray bar that is adjustable to at least twenty-two (22) feet wide in one (1) foot increments and capable of heating and circulating the emulsion simultaneously. It must have computerized rate control for adjusting and controlling the application from the cab that is adjustable by .05 gallons per square yard increments. The distributor shall also be equipped with a volume measuring device and a thermometer for measuring the emulsion temperature in the tank. If there are cul-de-sacs in the project area, at least one (1) of the asphalt distributor trucks shall be capable of placing emulsion around the perimeter of a cul-de-sac that is eighty foot (80') in diameter or larger in one (1) continuous pass.
- B. Six (6) dump trucks with hitches for spreader.
- C. Two (2) self-propelled computer controlled aggregate spreaders that can evenly distribute aggregate up to twenty feet (20") wide.
- D. A minimum of three (3) pneumatic rollers weighing at least five (5) tons.
- E. Three (3) mechanically powered kick brooms and one (1) mechanical pick-up broom.
- F. A back pack blower for removing excess chips during the sweeping operation.
- G. A self-propelled kick broom.

**Pneumatic Roller Specification:**

Pneumatic tire rolling shall follow immediately after the aggregate is applied. A minimum of two (2) self-propelled pneumatic-tired rollers shall be used for the required rolling of the aggregate. The pneumatic tired rollers shall be in good working condition and actively rolling at all times during the chip seal operation. The pneumatic-tired rollers shall carry a minimum loading of three thousand (3,000) pounds on each wheel and a minimum air pressure of one hundred (100) pounds per square inch in each tire.

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The tire pressure shall be maintained so that the air pressure will not vary more than five (5) psi in each tire. The pneumatic tired roller shall be operated in such a manner to prevent the dislodging of newly applied aggregate. Power sweeping shall be done before the end of the day after chip seal operation to remove any excess loose aggregate. During the sweeping process, the Contractor shall use a back pack blower to clear driveways, gutters and sidewalks of excess aggregate at the end of each day. The Contractor shall exercise care to prevent oil from being deposited on concrete surfaces. Each day the Contractor shall remove oil from the surfaces not designated to be chip sealed. No additional roads or streets shall be chip sealed until this cleanup has been performed. The method of the oil removal shall be approved by the Engineer.

Basis for rejection of chip seal includes, but is not limited to, improper placement of material, striation of surface, "balling" of material due to quick-set, and tracks of vehicles, bicycles, chip broom and pedestrians. Payment for the high float chip seal shall include full compensation for furnishing labor and equipment and incidentals, vegetation removal, pre-sweeping, post-sweeping, posting no parking signs, notifying property owners and for doing all the work involved in constructing the high float chip seal complete-in-place, including cleaning of the surface, mixing and applying asphaltic emulsion on the pavement and protecting the seal until it has set, as shown on the plans, the standard specifications, these special provisions and as directed by the Engineer.

**Milling Operations:**

Cold milling shall consist of milling to a depth and width established by the District Engineer or their designee. Machine shall be equipped with a grade control to monitor to referenced grade lines.

**A. Equipment**

The equipment used for this operation shall meet the following specifications:

1. Power operated planning or grinding machine capable of removing, in one pass, a layer of Hot Mix Asphalt pavement material to a depth of 1 inch with a maximum cutting width of 72 inches.
2. The cutting area of the equipment shall be enclosed and must have effective means of dust control.
3. Equipped with grade reference control device.
4. Shall be capable of reclaiming at least 95% of the material milled. The use of a vacuum or pick-up type sweeper may be required.

**Chip Seal Aggregate:**

The work under this item shall consist of placement of existing AC millings through a crushing/screening process to obtain chip seal aggregate.

The portable crushing/screening plant must be capable of crushing and screening material to gradations specified below. It must be closed circuit with the ability to remove petro mat and crack filler. It shall have one or more aggregate feeder bins, and associated conveyor belt. All equipment associated with the crushing and screening plant must meet state and local health and safety requirements.

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The aggregate shall meet the following gradation

GRADATION (% Passing)					
3/4"	1/2"	3/8"	No. 4	No. 10	No. 200
100	90-100	0-90	0-12	0-2	0-1.0

Accepted aggregate material shall also meet the following requirements:

1. The aggregate shall be free of organic matter, lumps of clay, or other material that prevents thorough coating with asphalt material.
2. Acceptance testing shall be performed by the Department at the stockpile location.
3. The contractor may, at his own expense, hire an independent laboratory to resolve disputes of quality. In order to be considered by the Department, any work of this nature must be performed by a Department approved testing laboratory. Otherwise all tests, measurements and conversions performed by the Department shall be final.
4. Gradation testing frequencies shall be one per 250 tons for the first 2,000 tons, thereafter one test per 500 tons minimum for acceptance. A minimum of two tests shall be obtained per stockpile.
5. The Engineer shall have the right to reject any non-conforming material supplied by the contractor. Material may be rejected for, but not be limited to: 1) Failure to meet Departments material requirements, 2) Failure to be stockpiled according to specifications or direction by the Engineer, or 3) Failure to be delivered within the time specified. Any material that is rejected by the Department shall not be paid for by the Department, and the State shall not be liable to the contractor from any damages of any nature whatsoever resulting from rejection of said material.
6. Rejected material shall be removed from the site at the contractor's expense unless otherwise approved by the Engineer.
7. A quality Control Plan is not required.

Measurement and Payment for Chip Seal aggregate shall be based on Department survey (stockpile) per CY of the through put material (AC Millings processed through crushing operation).

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Item	Approx. Qty.	Unit	Article and Description	Unit Price
001	10,000	Sq. Yd.	Fog-seal surface treatment, 0 to 30,000 sq. yds.	AA)\$0.35 AB)\$0.25 AC)\$0.22 AD)\$0.30
002	35,000	Sq. Yd.	Fog-seal surface treatment, 30,001 to 70,000 sq. yds.	AA)\$0.25 AB)\$0.20 AC)\$0.18 AD)\$0.20
003	80,000	Sq. Yd.	Fog-seal surface treatment, over 70,000 sq. yds.	AA)\$0.20 AB)\$0.15 AC)\$0.13 AD)\$0.15
004	10,000	Sq. Yd.	Single surface penetration treatment, 0 to 30,000 sq. yds.	AA)\$2.35 AB)\$1.99 AC)\$2.25 AD)\$2.25
005	35,000	Sq. Yd.	Single surface penetration treatment, 30,001 to 70,000 sq. yds.	AA)\$1.90 AB)\$1.49 AC)\$1.75 AD)\$1.75
006	80,000	Sq. Yd.	Single surface penetration treatment, over 70,000 sq. yds.	AA)\$1.20 AB)\$0.99 AC)\$0.55 AD)\$1.00
007	10,000	Sq. Yd.	Double surface penetration treatment, 0 to 30,000 sq. yds.	AA)\$4.00 AB)\$3.95 AC)\$4.00 AD)\$3.75
008	35,000	Sq. Yd.	Double surface penetration treatment, 30,001 to 70,000 sq. yds.	AA)\$3.00 AB)\$2.95 AC)\$2.80 AD)\$2.80
009	80,000	Sq. Yd.	Double surface penetration treatment, over 70,000 sq. yds.	AA)\$2.00 AB)\$1.95 AC)\$1.20 AD)\$2.00

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010	20	Hr.	Traffic control per lane per hour, urban (within urban limits)	AA)\$125.00 AB)\$150.00 AC) \$90.00 AD)\$100.00
011	20	Hr.	Traffic control per lane per hour, rural (within rural limits)	AA)\$100.00 AB)\$125.00 AC) \$85.00 AD) \$85.00
012	20	Hr.	Flagging traffic control (urban areas) Provide necessary equipment to properly implement approved traffic control plan requiring flagging operations in urban areas. Payment shall be per flagger per hour.	AA)\$45.00 AB)\$65.00 AC)\$40.00 AD)\$35.00
013	20	Hr.	Flagging traffic control (rural areas) Provide necessary equipment to properly implement approved traffic control plan requiring flagging operations in rural areas. Payment shall be per flagger per hour.	AA)\$45.00 AB)\$65.00 AC)\$40.00 AD)\$35.00
014	20	Hr.	Arrow display, sequential arrow display	AA)\$27.00 AB)\$50.00 AC)\$20.00 AD)\$25.00
015	20	Hr.	Pilot car	AA)\$50.00 AB)\$75.00 AC)\$75.00 AD)\$45.00
016	5,000	L. F.	Tape reflectorized 4" temporary Reflectorized tape for temporary striping, 0 to 20,000 L. F.	AA)\$2.60 AB)\$1.50 AC)\$1.00 AD)\$2.50
017	30,000	L. F.	Tape reflectorized 4" temporary Reflectorized tape for temporary striping, over 20,000 L. F.	AA)\$2.10 AB)\$1.25 AC)\$0.80 AD)\$2.00
018	20	Hr.	Variable message board as required by the Engineer of the using agency or designee.	AA)\$66.00 AB)\$100.00 AC)\$65.00 AD)\$65.00
019	5,000	Ea.	Chip seal markers, flip type, temporary markers for pavement markings as required by the Engineer or designee of the using agency	AA)\$1.85 AB)\$1.50 AC)\$2.00 AD)\$2.00

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020	10,000	L. F.	Removal of temporary striping. Contractor shall remove removable temporary striping tape that was placed on the paving areas. This item will be done under proper traffic control only.	AA)\$0.50 AB)\$0.030 AC)\$0.30 AD)\$0.25
021	50	Mile	Mobilization charges for mileage from within the state of New Mexico to any worksite as requested (one-way). No payment will be made for moves less than thirty (30) miles.	AA)\$100.00 AB)\$85.00 AC)\$60.00 AD)\$50.00
022	5,000	Sq. Yd.	Sweeping (Mechanical P/U Broom), 0 to 10,000 Sq. Yds.	AA)\$1.00 AB)\$0.35 AC)\$0.20 AD)\$0.50
023	15,000	Sq. Yd.	Sweeping (Mechanical P/U Broom), 10,001 to 30,000 Sq. Yds.	AA)\$0.80 AB)\$0.30 AC)\$0.15 AD)\$0.40
024	40,000	Sq. Yd.	Sweeping (Mechanical P/U Broom), >30,001 Sq. Yds.	AA)\$0.60 AB)\$0.25 AC)\$0.12 AD)\$0.30
025	10,000	Sq. Yd.	Cold Milling of Hot Mix Asphalt Surfaces (<0.5 in.) 0 to 30,000 Sq. Yds.	AA)\$2.00 AB)\$1.50 AC)\$0.75 AD)\$1.75
026	10,000	Sq. Yd.	Cold Milling of Hot Mix Asphalt Surfaces (<0.5 in.) >30,001 Sq. Yds.	AA)\$1.75 AB)\$1.25 AC)\$0.50 AD)\$1.50
027	15,000	Sq. Yd.	Cold Milling of Hot Mix Asphalt Surfaces (>0.5 to 1.0 in.) 0 to 30,000 Sq. Yds.	AA)\$2.05 AB)\$2.00 AC)\$1.00 AD)\$2.00
028	40,000	Sq. Yd.	Cold Milling of Hot Mix Asphalt Surfaces (>0.5 to 1.0 in.) >30,001 Sq. Yds.	AA)\$1.90 AB)\$1.75 AC)\$0.50 AD)\$1.75
029	15,000	Cu. Yd.	Chip Seal Aggregate (Crushing/Screening Plant) (1000 to 30,000 Cu. Yds.)	AA)\$8.10 AB)\$11.00 AC)\$30.00 AD)\$10.00

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030	25,000	Cu. Yd.	Chip Seal Aggregate (Crushing/Screening Plant) (over 50,001 Cu. Yds.)	AA)\$7.90 AB)\$9.00 AC)\$18.00 AD)\$9.00
031	40,000	Cu. Yd.	Chip Seal Aggregate (Crushing/Screening Plant) (30,001 to 50,000 cu. yds.)	AA)\$8.00 AB)\$10.00 AC)\$15.00 AD)\$9.50

\*\*\* 31 Items Total \*\*\*