



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

**Price Agreement Amendment**

**Awarded Vendor:**  
**6 Vendors**

Number: **80-805-17-16244**

Amendment No.: **Four**

Term: **October 6, 2017 – October 5, 2021**

**Ship To:**  
**Various Locations, NMDOT District 5**

Procurement Specialist: **Clarke J. Fountain**

Telephone No.: **505-827-0487**

Email: **ClarkeJ.Fountain@state.nm.us**

**Invoice:**  
**New Mexico Department of Transportation**  
**1210 Cerrillos Road**  
**Santa Fe, NM 87504-1149**

**For questions regarding this contract please contact:**  
**India Garcia (505) 690-7383**

**Title: Hauling of Roadway Materials and Rental of Equipment**

**This 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 October 6, 2020 to October 5, 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**

*Valerie Paulk*  
Mark Hayden, New Mexico State Purchasing Agent

Date: 9/15/2020

× **This Agreement was signed on behalf of the State Purchasing Agent**



State of New Mexico  
General Services Department  
Purchasing Division

Price Agreement Amendment

Awarded Vendor  
6 Vendors

Price Agreement Number: 80-805-17-16244

Price Agreement Amendment No.: Three

Term: October 6, 2017 – October 5, 2020

Ship To:  
Various Locations, NMDOT District 5

Procurement Specialist: Clarke J. Fountain

Telephone No.: (505) 827-0487

Email: ClarkeJ.Fountain@state.nm.us

Invoice:  
New Mexico Department of Transportation  
1120 Cerrillos Road  
Santa Fe, NM 87504-1149

For questions regarding this Price Agreement please  
contact:  
India Garcia (505) 690-7383

Title: **Hauling of Roadway Materials and Rental of Equipment**

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 October 6, 2019 to October 5, 2020 at the same price, terms and conditions. Vendor (AE) R&E Transportation, did not extend.

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

Mark Hayden, New Mexico State Purchasing Agent

Date: 1011/2019



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

**Price Agreement Amendment**

**Awarded Vendor**  
**7 Vendors**

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

Price Agreement Number: **80-805-17-16244**

Price Agreement Amendment No.: **Two**

Term: **October 6, 2017 – October 5, 2020**

**Ship To:**  
**Various Locations, NMDOT District 5**

Procurement Specialist: **Clarke J. Fountain**

Telephone No.: **(505) 827-0487**

Email: **ClarkeJ.Fountain@state.nm.us**

**Invoice:**  
**New Mexico Department of Transportation**  
**1120 Cerrillos Road**  
**Santa Fe, NM 87504-1149**

**For questions regarding this Price Agreement please  
contact:**  
**India Garcia (505) 690-7383**

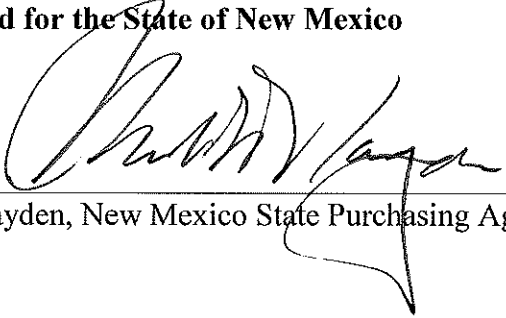
**Title: Hauling of Roadway Materials and Rental of Equipment**

**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 October 6, 2019 to October 5, 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**

  
Mark Hayden, New Mexico State Purchasing Agent

Date: 10/7/2019



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

**Contract Amendment**

**Awarded Vendor**  
**7 Vendors**

Contract Number: **80-805-17-16244**

Contract Amendment No.: **One**

Term: **October 6, 2017 – October 5, 2019**

**Ship to:**  
**Various Locations, NMDOT District 5**

Procurement Specialist: Clarke J. Fountain

Telephone No.: (505) 827-0487

Email: ClarkeJ.Fountain@state.nm.us

**Invoice:**  
**New Mexico Department of Transportation**  
**1120 Cerrillos Road**  
**Santa Fe, NM 87504-1149**

For questions regarding this Contract please contact:  
India Garcia (505) 827-5183

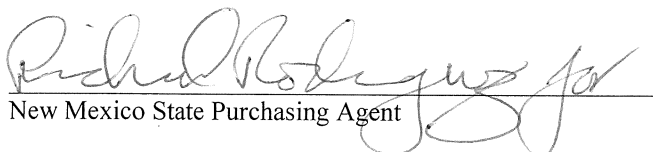
**Title: Hauling of Roadway Materials and Rental of Equipment**

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

**In accordance with Contract provisions, and by mutual agreement of all parties, this Contract is extended from October 6, 2018 to October 5, 2019 at the same price, terms and conditions.**

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

**Accepted for the State of New Mexico**

  
New Mexico State Purchasing Agent

Date: 10/06/2018



**State of New Mexico  
General Services Department**

**Price Agreement**

**Awarded Vendor**  
**Seven Vendors (see page 6)**

Price Agreement Number: **80-805-17-16244**

Payment Terms: **Net 30**

F.O.B.: **Destination**

Delivery: **As requested**

**Ship To:**  
**Various Locations, NMDOT District 5**

Procurement Specialist: **Clarke J. Fountain**

Telephone No.: **(505) 827-0487-**

**Invoice:**  
**New Mexico Department of Transportation**  
**1120 Cerrillos Road**  
**Santa Fe, NM 87504-1149**

**For questions regarding this contract please contact:**  
**India Garcia (505) 827-5183**

**Title: Hauling of Roadway Materials and Rental of Equipment**

**Term: October 6, 2017 – October 5, 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: 10/16/2017

## **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

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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, 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 13-1-199 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. Items:** 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. Submission of Bid:** 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 bid 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

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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. Subcontracts:** 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://www.insurenwnewmexico.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



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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/Pay\\_Equity.aspx](http://www.generalservices.state.nm.us/statepurchasing/Pay_Equity.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**

The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach. Termination of this Contract, however, shall not affect any outstanding orders. This provision is not

State of New Mexico  
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exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default. In such instances the contract may be cancelled effective immediately.

**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 of 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.

State of New Mexico  
General Services Department  
Purchasing Division  
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**Awarded Vendors:**

(AA) 0000046809  
C&E Concrete, Inc.  
P.O. Box 340  
Flora Vista, NM 87415  
505-334-7466

(AB) 0000049234  
Leroy's Excavating Inc.  
2 Private Drive 1529  
Hernandez, NM 87537  
505-753-3148

(AC) 0000052204  
Olivas Trucking Co.  
P.O. Box 504  
Mora, NM 87732  
505-350-9749

(AD) 0000052668  
PG Enterprises LLC  
301 Murray SE  
Albuquerque, NM 87105  
505-873-9593

(AE) 0000101607  
R & E Transportation, LLC  
231 Calle Industrial, Box #5.  
Bernalillo, NM 87004  
505-681-9913

(AF) Not in SHARE  
Strickland Services, LLC  
1530 Ice Caves Rd  
Grants, NM 87020  
505-290-3262

(AG) 0000043743  
JPR Decorative Gravel, Inc.  
2518 Coors Blvd SW  
Albuquerque, NM 87121  
505-877-3849

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

Establish a Price Agreement for Hauling of Roadway Materials and Rental of Equipment for the New Mexico Department of Transportation (NMDOT), District Five (5).

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.

Based upon this bid it is expressly understood and agreed that the NM Department of Transportation (NMDOT), through its District Engineer or his Designee, will pay trucks the hourly rate when hauling materials for short distances, and for hauling materials to lay down operations. Short distance hauls are distances between 0.0 miles – 20.0 miles. Hauls of 20.01 miles or greater will be paid for by the ton-mile or the yard-mile as directed by the District Engineer or his Designee. The New Mexico Department of Transportation Standard Specifications for Road and Bridge Construction, Current Edition is considered part of this contract, and may be referenced where applicable.

See the New Mexico Department of Transportation Standard Specifications for Road and Bridge Construction (current editions) for load restrictions. They are available on the NMDOT website, at the following link:

<http://dot.state.nm.us/content/nmdot/en/Standards.html>

They are also available for purchase at the General Office Financial Control Section contact (505) 827-5159.

When the ton-mile rental is used, scales will be provided by the Department of Transportation if ever needed.

The Department reserves the right to measure any mileage involved in a haul utilizing certified mileage device and the bidder agrees to accept this measurement as the actual mileage traveled in the haul.

The Department will pay only for legal loads hauled by the successful vendor. Legal loads shall be prescribed or determined by laws of the State of New Mexico and current regulations covering the operation of oversize and overweight vehicles on public roads and highways in New Mexico.

Any equipment required for providing the services of this contract offered in this Invitation to Bid, if accepted, will be delivered to the proper authority at a point to be designated by the accepting agency in first-class working condition and will be maintained in good running order at all times during the life of the contract at the expense of the vendor.

The vendor agrees that the Department shall have the right to inspect any piece of equipment required for providing the services of this contract at the time of delivery or at any time thereafter at such point as may be designated, and pass upon whether or not such equipment is in satisfactory condition for the work proposed to be done.

In the event that the equipment required for providing the services of this contract is found to be in unsatisfactory condition, the State of New Mexico shall have the privilege of permitting the vendor sufficient time for placing said equipment in satisfactory condition, or may cancel the agreement at any time as to any piece of equipment shall not be considered as approval thereof. Only authorized personnel shall have the right to inspect or approve equipment.

Equipment required for providing the services of this contract is to be delivered in good condition with necessary drivers/operators, who will operate and maintain the equipment in first-class working condition. All operating expenses, fuel, oil and repair parts are to be furnished by the vendor at his expense during the life of the contract. Payment will not be made for time out for repairs. The vendor agrees that the operator(s) of equipment will secure and have in their possession at all times, when operating the equipment, proper motor vehicle operator's license as required by the laws of the State of New Mexico.

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The vendor agrees to abide by Federal and State minimum wage laws when paying his operators and/or laborers.

The Contractor agrees that his contract is to cover an estimated period of one (1) year from date of acceptance; however, the state of New Mexico shall have the right to terminate and cancel the agreement, or any part thereof, on any or all pieces of equipment at any time by providing contractor with thirty (30) days written notice.

Failure to respond by the awarded vendor to the request(s) for service of the NMDOT in a timely manner will be cause for cancellation of this contract. This contract may be terminated by the NMDOT with thirty (30) days written notice as/when approved by the State Purchasing Agent.

**Insurance Requirements:** The Contractor shall procure and maintain at the Contractors 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 Contract, whether performed by the Contractor, the Contractor's agents or employees or by Sub-Contractors. 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, employees, agents and Sub-Contractors 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:

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)

- 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
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 Contract, 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 Contract, the Contractor's insurance must include coverage for injury to or destruction of property arising out of:

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 there from.

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:

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)

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- (B) **Worker's Compensation Insurance:** The Contractor shall also carry Worker's Compensation Insurance or otherwise fully comply with provisions 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 contract.

- (C) **Certificate of Insurance/Department as Additional Insured:** The Contractor being awarded the Contract/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 Contract/Price Agreement.

The Contractor shall have the New Mexico Department of Transportation named as an 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, cancelled or allowed to lapse without giving the Department thirty (30) days 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 Contract.

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 individual Contractor. The Department will recognize following form excess coverage (Umbrella) as meeting the requirements of Subsection (A) 1.a of this Contract, 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 Sub-Contractors.
- (F) **Railroad Insurance:** In the event that railroad property is affected by the subject Contract, 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 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  
Liability and Physical Damage to Property: \$6,000,000 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 (AASHTO Form).

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The operation of rental trucks shall be directed by the District Engineer or his designee. The contractor shall be considered an independent contractor and not an employee of the NMDOT; however, directions as to time and place of performance and compliance with rules and regulations may be required by the Department.)

Monies paid to the awarded vendor are public tax dollars. The intent of the NMDOT is to award this contract to the lowest bidder. Awarded vendor is to exhibit professionalism and timeliness for any order given by the Department. Awarded vendor shall communicate with the District Five Maintenance Engineer, Javier Martinez (505) 955-7714 if any situation arises which impedes timeliness.

Awarded vendor will contact the NMDOT, Area Maintenance Supervisor, Corey Gonzales at (505) 995-7837 if any other contractor stops/delays/impedes his assignment to the NMDOT District Five for more than one (1) hour \*\* or \*\* if any acts of mother nature stops/delays/impedes his assignment to the NMDOT District Five for more than one (1) hour.

The NMDOT District Five will estimate, as close as possible, the time for trucks to travel safely and legally from point A to point B. Truck driver time sheets which reflect excessive time without reason to travel from point A to point B will be disallowed.

Awarded vendor will review time sheets and insure they have correct dates, correct job name, correct times and that they are legible. The NMDOT will reject documents that are substandard, no exceptions.

Delays caused by break down of trucks shall be reported to Javier Martinez at NMDOT District Five and noted on the driver time sheets as a caused delay.

The NMDOT District Five will normally issue orders to the awarded vendor with instructions for trucks to report to a specific location for "loading" and "hauling" of materials. The NMDOT District Five will instruct the vendor to have the trucks arrive at a "staggered" time to prevent "bottlenecks" during loading in the morning. Drivers who arrive early and reflect so on their time sheets will not be paid for arriving at other than the time instructed to by the NMDOT. The awarded vendor will be in default of their contract obligations if the number of trucks ordered is not the number of trucks provided.

Awarded vendor will instruct drivers, assigned to the NMDOT, of tarping procedures during hauling of materials and safety to the travelling public. The NMDOT District Five will issue orders and expect the vendor's trucks to arrive at the instructed time and the NMDOT expects the vendor's truck drivers to be ready and alert for a days work. The NMDOT will not accept a truck driver who has not rested/slept at least four (4) hours the night before due to other commitments or other work assignments. Awarded vendor is completely responsible for their truck drivers.

**Stand-by Time:**

The NMDOT will pay stand-by time when operations are halted temporarily because, of a breakdown of NMDOT equipment/or hired equipment and operations appear imminent to proceed as planned. Stand-by time will also be paid when the NMDOT/Designee changes instructions for any reason to the awarded vendor. Travel time will be paid at the stand-by rate for one-way only to the destination of "haul site" the first day. No more than two (2) hours per truck travel time will be allowed. Travel time will be paid regardless of hourly rate, yard mile or ton mile assignments.

Cancellation of work due to snow, rain, etc, is something that is to be expected. The NMDOT will contact the trucking company's Supervisor/Foreman and advise of no work that day. It is the Supervisor/Foreman primary responsibility to call and contact the NMDOT designee before reporting to work if obvious inclement weather is occurring. The NMDOT will be on a "two (2) hour delay" if the decision is made by the NMDOT that work will occur. A two (2) hour delay is acceptable to the NMDOT. Drivers who show up before the two (2) hour delay will not be paid. Awarded vendor is completely responsible that above instructions are followed.

Communication between the NMDOT designee/and the trucking foreman will be open at all times. Both parties will be accessible to each other. Failure of one party to be accessible to the other will not be grounds for any of the above instructions not to be adhered to. Common sense and accepted business practices will be followed by both parties.

The NMDOT reserves the right to order either "Belly Dumps" or "End Dumps" to accomplish the hauling jobs.

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**The NMDOT District Engineer/Designee decisions will be final.**

The conditions listed in the above paragraphs are an integral part of this bid and shall be the conditions regulating the performance of any contract between the Contractor and the State of New Mexico and any Commission(s), Divisions or Departments thereof.

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 any 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.

**Multiple Awards:**

Pursuant to the Procurement Code, Section 13-1-153 and 13-1-154, the State reserves the right to issue multiple awards to obtain the items listed. Multiple awards are recommended to ensure availability and timely delivery.

NMDOT- D5 intends to award this Price Agreement to the lowest responsible bidder(s). The NMDOT reserves the right to reject any and all bids, to waive technical irregularities, and to award the Price Agreement to the bidder whose bid is deemed to be in the best interest of the NMDOT

**Hold Harmless clause:**

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 property caused by, or resulting from, contractor's and/or its employees, own negligent act(s) or omission(s) while Contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under the terms and conditions of this agreement. This save harmless and indemnification clause is subject to the immunities, provisions and limitations of the Tort Claim Act (41-4-1, Et. Seq., N.M.S.A. 1978 Comp.) Sections 56-7-1 N.M.S.A. 1978 Comp. and any amendments thereto. It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.

Price shall not include state gross receipts or local tax (es). Such tax (es) shall be added to the invoice at current rates as a separate item to be paid by users.

The price quoted herein represents the total compensation to be paid by state for goods and/or services provided. It is understood that the party providing said goods and/or services to the state is responsible for payment of all costs of labor, equipment, tools, materials, federal tax, permits, licenses, fees and any other items necessary to complete the work provided. The price quoted in this contract includes an amount sufficient to cover such costs.

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 written notice from the Contractor, that payment is requested, provide 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 (30<sup>th</sup>) day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due to the Contractor at the rate of one and one-half percent (1 ½%) per month. For purchases funded by state or federal grants to local public bodies, if the local 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, payment shall be tendered to the Contractor within five (5) working days of receipt of funds from that agency.



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Final payments shall be made within thirty (30) days after the work has been approved and accepted by the District Engineer or the District Engineers designee.

**Note:**

The Department of Transportation, or any other user of this contract, will be responsible for assuring that the hauler has obtained the proper permits from State Corporation Commission when required to haul regulated materials in accordance with SCC Regulations.

This must be an "All or None" award and will be awarded to the overall low bidder meeting all specifications.

Because of response time requirements, "no bids" will be accepted from vendors further than one hundred twenty miles (120) miles from the NMDOT District Five, Santa Fe, New Mexico.

Emphasis will be given to item #0001 – Hourly Rate and item #0002 – Ton/Mile.

Vendor is requested to indicate their Federal Tax Id Number, NM Gross Receipts Number or Social Security Number: \_\_\_\_\_.

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**Items**

Item	Unit	Article and Description	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
			(1)	(2)	(3)	(4)	(5)	(6)	(7)
			C&E Concrete, Inc.	Leroy's Excavating, Inc.	Olivas Trucking Co.	PG Enterprises, LLC	R&E Transportation, LLC	Strickland Services, LLC	JPR Decorative Gravel, Inc.
0001	Hour	Rate for a Truck and Belly Dump/Dump Trailer combination having a Maximum legal load capacity ranging from 56,000 pounds to 86,400 pounds	\$87.85	\$75.00	\$85.00	\$95.00	\$90.00	\$85.00	\$80.00
0002	Mile	Hauling of materials as required by the District Engineer or his designee. (Ton/Mile)	\$0.195	\$0.175	\$0.36	\$0.23	\$0.20	\$0.185	\$0.20
0003	Mile	Hauling of materials as required by the District Engineer or his designee (Yard/Mile)	\$0.29	\$0.175	\$0.46	\$0.28	\$0.28	\$0.28	\$0.26
0004	Hour	Rental Rate for one loader 6.5 cubic yard capacity, with operator.	\$85.00	\$100.00	\$150.00	\$125.00	\$195.00	\$125.00	\$175.00
0005	Hour	Stand-by time Rate	\$60.00	\$45.00	\$48.00	\$65.00	\$65.00	\$50.00	\$45.00

\*\*\*\*5 Awarded Items\*\*\*\*



**State of New Mexico  
General Services Department**

**Price Agreement**

**Awarded Vendor**  
**Seven Vendors (see page 6)**

Price Agreement Number: **80-805-17-16244**

Payment Terms: **Net 30**

F.O.B.: **Destination**

Delivery: **As requested**

**Ship To:**  
**Various Locations, NMDOT District 5**

Procurement Specialist: **Clarke J. Fountain**

Telephone No.: **(505) 827-0487-**

**Invoice:**  
**New Mexico Department of Transportation**  
**1120 Cerrillos Road**  
**Santa Fe, NM 87504-1149**

**For questions regarding this contract please contact:**  
**India Garcia (505) 827-5183**

**Title: Hauling of Roadway Materials and Rental of Equipment**

**Term: October 6, 2017 – October 5, 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: 10/16/2017

## **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

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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, 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 13-1-199 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. Items:** 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. Submission of Bid:** 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 bid 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

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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. Subcontracts:** 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://www.insurenwnewmexico.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

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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/Pay\\_Equity.aspx](http://www.generalservices.state.nm.us/statepurchasing/Pay_Equity.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**

The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach. Termination of this Contract, however, shall not affect any outstanding orders. This provision is not

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exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default. In such instances the contract may be cancelled effective immediately.

**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 of 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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**Awarded Vendors:**

(AA) 0000046809  
C&E Concrete, Inc.  
P.O. Box 340  
Flora Vista, NM 87415  
505-334-7466

(AB) 0000049234  
Leroy's Excavating Inc.  
2 Private Drive 1529  
Hernandez, NM 87537  
505-753-3148

(AC) 0000052204  
Olivas Trucking Co.  
P.O. Box 504  
Mora, NM 87732  
505-350-9749

(AD) 0000052668  
PG Enterprises LLC  
301 Murray SE  
Albuquerque, NM 87105  
505-873-9593

(AE) 0000101607  
R & E Transportation, LLC  
231 Calle Industrial, Box #5.  
Bernalillo, NM 87004  
505-681-9913

(AF) Not in SHARE  
Strickland Services, LLC  
1530 Ice Caves Rd  
Grants, NM 87020  
505-290-3262

(AG) 0000043743  
JPR Decorative Gravel, Inc.  
2518 Coors Blvd SW  
Albuquerque, NM 87121  
505-877-3849

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**Specifications:**

Establish a Price Agreement for Hauling of Roadway Materials and Rental of Equipment for the New Mexico Department of Transportation (NMDOT), District Five (5).

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.

Based upon this bid it is expressly understood and agreed that the NM Department of Transportation (NMDOT), through its District Engineer or his Designee, will pay trucks the hourly rate when hauling materials for short distances, and for hauling materials to lay down operations. Short distance hauls are distances between 0.0 miles – 20.0 miles. Hauls of 20.01 miles or greater will be paid for by the ton-mile or the yard-mile as directed by the District Engineer or his Designee. The New Mexico Department of Transportation Standard Specifications for Road and Bridge Construction, Current Edition is considered part of this contract, and may be referenced where applicable.

See the New Mexico Department of Transportation Standard Specifications for Road and Bridge Construction (current editions) for load restrictions. They are available on the NMDOT website, at the following link:

<http://dot.state.nm.us/content/nmdot/en/Standards.html>

They are also available for purchase at the General Office Financial Control Section contact (505) 827-5159.

When the ton-mile rental is used, scales will be provided by the Department of Transportation if ever needed.

The Department reserves the right to measure any mileage involved in a haul utilizing certified mileage device and the bidder agrees to accept this measurement as the actual mileage traveled in the haul.

The Department will pay only for legal loads hauled by the successful vendor. Legal loads shall be prescribed or determined by laws of the State of New Mexico and current regulations covering the operation of oversize and overweight vehicles on public roads and highways in New Mexico.

Any equipment required for providing the services of this contract offered in this Invitation to Bid, if accepted, will be delivered to the proper authority at a point to be designated by the accepting agency in first-class working condition and will be maintained in good running order at all times during the life of the contract at the expense of the vendor.

The vendor agrees that the Department shall have the right to inspect any piece of equipment required for providing the services of this contract at the time of delivery or at any time thereafter at such point as may be designated, and pass upon whether or not such equipment is in satisfactory condition for the work proposed to be done.

In the event that the equipment required for providing the services of this contract is found to be in unsatisfactory condition, the State of New Mexico shall have the privilege of permitting the vendor sufficient time for placing said equipment in satisfactory condition, or may cancel the agreement at any time as to any piece of equipment shall not be considered as approval thereof. Only authorized personnel shall have the right to inspect or approve equipment.

Equipment required for providing the services of this contract is to be delivered in good condition with necessary drivers/operators, who will operate and maintain the equipment in first-class working condition. All operating expenses, fuel, oil and repair parts are to be furnished by the vendor at his expense during the life of the contract. Payment will not be made for time out for repairs. The vendor agrees that the operator(s) of equipment will secure and have in their possession at all times, when operating the equipment, proper motor vehicle operator's license as required by the laws of the State of New Mexico.

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The vendor agrees to abide by Federal and State minimum wage laws when paying his operators and/or laborers.

The Contractor agrees that his contract is to cover an estimated period of one (1) year from date of acceptance; however, the state of New Mexico shall have the right to terminate and cancel the agreement, or any part thereof, on any or all pieces of equipment at any time by providing contractor with thirty (30) days written notice.

Failure to respond by the awarded vendor to the request(s) for service of the NMDOT in a timely manner will be cause for cancellation of this contract. This contract may be terminated by the NMDOT with thirty (30) days written notice as/when approved by the State Purchasing Agent.

**Insurance Requirements:** The Contractor shall procure and maintain at the Contractors 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 Contract, whether performed by the Contractor, the Contractor's agents or employees or by Sub-Contractors. 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, employees, agents and Sub-Contractors 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:

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)

- 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
  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 Contract, 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 Contract, the Contractor's insurance must include coverage for injury to or destruction of property arising out of:
- 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 there from.

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:

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)

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- (B) **Worker's Compensation Insurance:** The Contractor shall also carry Worker's Compensation Insurance or otherwise fully comply with provisions 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 contract.

- (C) **Certificate of Insurance/Department as Additional Insured:** The Contractor being awarded the Contract/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 Contract/Price Agreement.

The Contractor shall have the New Mexico Department of Transportation named as an 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, cancelled or allowed to lapse without giving the Department thirty (30) days 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 Contract.

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 individual Contractor. The Department will recognize following form excess coverage (Umbrella) as meeting the requirements of Subsection (A) 1.a of this Contract, 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 Sub-Contractors.
- (F) **Railroad Insurance:** In the event that railroad property is affected by the subject Contract, 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 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  
Liability and Physical Damage to Property: \$6,000,000 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 (AASHTO Form).

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The operation of rental trucks shall be directed by the District Engineer or his designee. The contractor shall be considered an independent contractor and not an employee of the NMDOT; however, directions as to time and place of performance and compliance with rules and regulations may be required by the Department.)

Monies paid to the awarded vendor are public tax dollars. The intent of the NMDOT is to award this contract to the lowest bidder. Awarded vendor is to exhibit professionalism and timeliness for any order given by the Department. Awarded vendor shall communicate with the District Five Maintenance Engineer, Javier Martinez (505) 955-7714 if any situation rises which impedes timeliness.

Awarded vendor will contact the NMDOT, Area Maintenance Supervisor, Corey Gonzales at (505) 995-7837 if any other contractor stops/delays/impedes his assignment to the NMDOT District Five for more than one (1) hour \*\* or \*\* if any acts of mother nature stops/delays/impedes his assignment to the NMDOT District Five for more than one (1) hour.

The NMDOT District Five will estimate, as close as possible, the time for trucks to travel safely and legally from point A to point B. Truck driver time sheets which reflect excessive time without reason to travel from point A to point B will be disallowed.

Awarded vendor will review time sheets and insure they have correct dates, correct job name, correct times and that they are legible. The NMDOT will reject documents that are substandard, no exceptions.

Delays caused by break down of trucks shall be reported to Javier Martinez at NMDOT District Five and noted on the driver time sheets as a caused delay.

The NMDOT District Five will normally issue orders to the awarded vendor with instructions for trucks to report to a specific location for "loading" and "hauling" of materials. The NMDOT District Five will instruct the vendor to have the trucks arrive at a "staggered" time to prevent "bottlenecks" during loading in the morning. Drivers who arrive early and reflect so on their time sheets will not be paid for arriving at other than the time instructed to by the NMDOT. The awarded vendor will be in default of their contract obligations if the number of trucks ordered is not the number of trucks provided.

Awarded vendor will instruct drivers, assigned to the NMDOT, of tarping procedures during hauling of materials and safety to the travelling public. The NMDOT District Five will issue orders and expect the vendor's trucks to arrive at the instructed time and the NMDOT expects the vendor's truck drivers to be ready and alert for a days work. The NMDOT will not accept a truck driver who has not rested/slept at least four (4) hours the night before due to other commitments or other work assignments. Awarded vendor is completely responsible for their truck drivers.

**Stand-by Time:**

The NMDOT will pay stand-by time when operations are halted temporarily because, of a breakdown of NMDOT equipment/or hired equipment and operations appear imminent to proceed as planned. Stand-by time will also be paid when the NMDOT/Designee changes instructions for any reason to the awarded vendor. Travel time will be paid at the stand-by rate for one-way only to the destination of "haul site" the first day. No more than two (2) hours per truck travel time will be allowed. Travel time will be paid regardless of hourly rate, yard mile or ton mile assignments.

Cancellation of work due to snow, rain, etc, is something that is to be expected. The NMDOT will contact the trucking company's Supervisor/Foreman and advise of no work that day. It is the Supervisor/Foreman primary responsibility to call and contact the NMDOT designee before reporting to work if obvious inclement weather is occurring. The NMDOT will be on a "two (2) hour delay" if the decision is made by the NMDOT that work will occur. A two (2) hour delay is acceptable to the NMDOT. Drivers who show up before the two (2) hour delay will not be paid. Awarded vendor is completely responsible that above instructions are followed.

Communication between the NMDOT designee/and the trucking foreman will be open at all times. Both parties will be accessible to each other. Failure of one party to be accessible to the other will not be grounds for any of the above instructions not to be adhered to. Common sense and accepted business practices will be followed by both parties.

The NMDOT reserves the right to order either "Belly Dumps" or "End Dumps" to accomplish the hauling jobs.

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**The NMDOT District Engineer/Designee decisions will be final.**

The conditions listed in the above paragraphs are an integral part of this bid and shall be the conditions regulating the performance of any contract between the Contractor and the State of New Mexico and any Commission(s), Divisions or Departments thereof.

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 any 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.

**Multiple Awards:**

Pursuant to the Procurement Code, Section 13-1-153 and 13-1-154, the State reserves the right to issue multiple awards to obtain the items listed. Multiple awards are recommended to ensure availability and timely delivery.

NMDOT- D5 intends to award this Price Agreement to the lowest responsible bidder(s). The NMDOT reserves the right to reject any and all bids, to waive technical irregularities, and to award the Price Agreement to the bidder whose bid is deemed to be in the best interest of the NMDOT

**Hold Harmless clause:**

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 property caused by, or resulting from, contractor's and/or its employees, own negligent act(s) or omission(s) while Contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under the terms and conditions of this agreement. This save harmless and indemnification clause is subject to the immunities, provisions and limitations of the Tort Claim Act (41-4-1, Et. Seq., N.M.S.A. 1978 Comp.) Sections 56-7-1 N.M.S.A. 1978 Comp. and any amendments thereto. It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.

Price shall not include state gross receipts or local tax (es). Such tax (es) shall be added to the invoice at current rates as a separate item to be paid by users.

The price quoted herein represents the total compensation to be paid by state for goods and/or services provided. It is understood that the party providing said goods and/or services to the state is responsible for payment of all costs of labor, equipment, tools, materials, federal tax, permits, licenses, fees and any other items necessary to complete the work provided. The price quoted in this contract includes an amount sufficient to cover such costs.

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 written notice from the Contractor, that payment is requested, provide 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 (30<sup>th</sup>) day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due to the Contractor at the rate of one and one-half percent (1 ½%) per month. For purchases funded by state or federal grants to local public bodies, if the local 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, payment shall be tendered to the Contractor within five (5) working days of receipt of funds from that agency.

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Final payments shall be made within thirty (30) days after the work has been approved and accepted by the District Engineer or the District Engineers designee.

**Note:**

The Department of Transportation, or any other user of this contract, will be responsible for assuring that the hauler has obtained the proper permits from State Corporation Commission when required to haul regulated materials in accordance with SCC Regulations.

This must be an "All or None" award and will be awarded to the overall low bidder meeting all specifications.

Because of response time requirements, "no bids" will be accepted from vendors further than one hundred twenty miles (120) miles from the NMDOT District Five, Santa Fe, New Mexico.

Emphasis will be given to item #0001 – Hourly Rate and item #0002 – Ton/Mile.

Vendor is requested to indicate their Federal Tax Id Number, NM Gross Receipts Number or Social Security Number: \_\_\_\_\_.

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**Items**

Item	Unit	Article and Description	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
			(1)	(2)	(3)	(4)	(5)	(6)	(7)
			C&E Concrete, Inc.	Leroy's Excavating, Inc.	Olivas Trucking Co.	PG Enterprises, LLC	R&E Transportation, LLC	Strickland Services, LLC	JPR Decorative Gravel, Inc.
0001	Hour	Rate for a Truck and Belly Dump/Dump Trailer combination having a Maximum legal load capacity ranging from 56,000 pounds to 86,400 pounds	\$87.85	\$75.00	\$85.00	\$95.00	\$90.00	\$85.00	\$80.00
0002	Mile	Hauling of materials as required by the District Engineer or his designee. (Ton/Mile)	\$0.195	\$0.175	\$0.36	\$0.23	\$0.20	\$0.185	\$0.20
0003	Mile	Hauling of materials as required by the District Engineer or his designee (Yard/Mile)	\$0.29	\$0.175	\$0.46	\$0.28	\$0.28	\$0.28	\$0.26
0004	Hour	Rental Rate for one loader 6.5 cubic yard capacity, with operator.	\$85.00	\$100.00	\$150.00	\$125.00	\$195.00	\$125.00	\$175.00
0005	Hour	Stand-by time Rate	\$60.00	\$45.00	\$48.00	\$65.00	\$65.00	\$50.00	\$45.00

\*\*\*\*5 Awarded Items\*\*\*\*