



State of New Mexico
General Services Department
Purchasing Division

Price Agreement Amendment

Awarded Vendor
2 Vendors

Telephone No :

Price Agreement Number: 60-805-15-13634

Price Agreement Amendment No.: Three

Term: December 14, 2015 – December 13, 2019

Ship To:
New Mexico Department of Transportation
(Various Locations)

Procurement Specialist: Raelynn Lujan *RL*

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) 827-5127

Title: Hot Mix Asphalt District 5

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 December 14, 2018 to December 13, 2019 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

[Signature]
New Mexico State Purchasing Agent

Date: 9/17/2018



State of New Mexico
General Services Department
Purchasing Division

Price Agreement Amendment

Awarded Vendor 2 Vendors Telephone No. Email:
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Price Agreement Number: 60-805-15-13634

Price Agreement Amendment No.: TWO

Term: December 14, 2015 – December 13, 2018

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: Mark Lujan

Telephone No.: (505) 827-0564

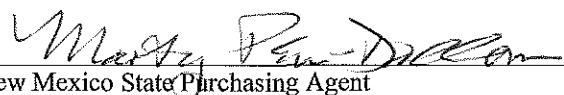
Title: **Hot Mix Asphalt District 5**

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 December 14, 2017 to December 13, 2018 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


 New Mexico State Purchasing Agent
 ML

Date: 10/18/17



State of New Mexico
General Services Department
Purchasing Division

Price Agreement Amendment

Awarded Vendor:
2 Vendors

Telephone No.: _____

Price Agreement Number: 60-805-15-13634

Price Agreement Amendment No.: One

Term: December 14, 2015-December 13, 2017

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: **Hot Mix Asphalt District 5**

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 December 14, 2016 to December 13, 2017 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: 11/28/16



State of New Mexico General Services Department

Price Agreement

Awarded Vendor:
2 Vendors (see page seven)

Telephone No.:


Price Agreement Number: 60-805-15-13634

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: Hot Mix Asphalt District 5

Term: December 14, 2015-December 13, 2016

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: 12/10/15

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, such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government,

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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://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 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.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement #: 60-805-15-13634

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Awarded Vendors:

(AA) 0000045239
Oldcastle SW Group, Inc.
PO Box 16
Farmington, NM 87499
505-324-3910

(AB) 0000051285
Russell Sand & Gravel Co. Inc.
PO Box 296
Los Ojos, NM 87551
575-588-7933

State of New Mexico
 General Services Department
 Purchasing Division
 Price Agreement #: 60-805-15-13634

To establish a Price Agreement for Hot Mixed Asphalt (HMA). These materials will be provided to the NM Department of Transportation District Five.

Term of Agreement:

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

Material Specifications:

Materials purchased under this contract shall meet any applicable specifications as set forth in the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, current edition and current Special Provisions and Supplemental Specifications. Please refer to the following Sections:

- Section 106 "Control of Materials";
- Section 108 "Prosecution and Progress";
- Section 423 "Hot Mix Asphalt – Superpave (QLA & Non-QLA)"
- Section 402 "Bituminous Materials, Hydrated Lime and Liquid Anti-Stripping Agents"; and
- Section 403 "Open Graded Friction Course".

The following tables' data was taken from AASHTO MP 2, Standard Specifications for Superpave Volumetric Mix Design. These "Standard Specifications" may be purchased, for a fee, from the department. For items 1 – 28 and 43 – 49 SP V Gradation, the following aggregate gradation shall be used:

Sieve Size (U.S)	Control Points		Restricted Zone	
	Lower	Upper	Lower	Upper
1/2 inch	100	-	-	-
3/8 inch	90	100	-	-
No. 4	-	90	-	-
No. 8	32	67	47.2	47.2
No. 16	-	-	31.6	37.6
No. 30	-	-	23.5	27.5
No. 50	-	-	18.7	18.7
No. 100	-	-	-	-
No. 200	2	10	-	-

For Items 137 – 142 and 151 - 157, Section 424 Warm Mix Asphalt – Superpave, the following Supplemental Specifications shall apply:

424 Warm Mix Asphalt – Superpave

Use Section 423 of the NMDOT Standard Specifications for Highway and Bridge Construction for all Hot Mix Asphalt requirements except those covered herein.

424.1 DESCRIPTION

This work shall consist of constructing one or more warm-mix asphalt (WMA) pavement courses produced with warm-mix additive technologies approved by the New Mexico Department of Transportation, and included on the most current Approved Products List (APL).

Warm-mix asphalt shall be produced in a mixing plant and stored, hauled, placed and compacted in accordance with the requirements of Section 423, and as shown on the plans.

A representative authorized to legally represent the Warm-mix additive supplier shall be involved throughout this project, including but not limited to development of the WMA mix design, batching of the approved WMA mix design, delivery to the project, and all placement activities, including distribution and compaction. This representative is responsible to ensure and confirm in writing that the Warm-mix additive is handled properly. This representative does not have the authority to allow any deviation from the Department Specifications and project requirements.

424.2 MATERIALS

424.2.1 General

WMA is a mixture of asphalt binder, warm mix additive, aggregate, blending sand, mineral filler and hydrated lime or anhydrite based material. The Department will allow Reclaimed Asphalt Pavement (RAP) in WMA mixes as long as the resulting mixture conforms to all specifications and requirements for conventional HMA pavements.

Size, uniformly grade and combine aggregate fractions in accordance with the Contract. Test materials in accordance with the applicable AASHTO methods, as modified by the Department (if applicable) or other test procedures as directed by the Department. The State Materials Bureau will decide all questions pertaining to the interpretation of test procedures.

424.2.2 Aggregate

Aggregate shall comply with section 423.

424.2.3 Warm Mix Additive

Only Warm-mix additives that have been approved by the Product Evaluation Program and are currently listed on the APL can be used on NMDOT projects.

The type and dosage of warm mix additives shall comply with the requirements of the Warm-mix additive supplier. Warm-mix additive dosage rates shall not deviate from those designated by the Warm-mix additive supplier.

The Warm-mix additive shall not alter the PG grade of the binder specified in the Contract.

For foamed asphalt systems, water used as directed by the foamed asphalt system manufacturer shall be considered to be the warm mix additive.

424.2.4 Asphalt Binder

The contract will specify the type and grade of asphalt binder. Provide asphalt binders in accordance with Section 402 "Asphalt Materials, Hydrated Lime and Anhydrite Based Material." Do not change the asphalt source after approval of the mix design without written approval of the State Materials Bureau.

The binder that is used will be treated with the Warm-mix additive and evaluated for compliance with the rheological properties for low and high temperatures for the specified PG grade in accordance with:

- AASHTO T 315 Standard Method of Test for Determining the Rheological Properties of Asphalt Binder using a Dynamic Shear Rheometer (DSR);
- AASHTO T 313 Determining the Flexural Creep Stiffness of Asphalt Binder Using the Bending Beam Rheometer (BBR);

Samples of the treated binder shall be obtained and submitted to the State Materials Bureau for confirmation of the required PG grade. The number and frequency of these samples shall be in accordance with the Minimum Testing Requirements. Do not use treated binder that does not comply with these requirements. If WMA has been placed using treated binder that does not comply with these specifications, all effected material shall be removed and replaced at no cost to the Department.

424.2.5 Hydrated Lime or Anhydrite Based Material

Hydrated lime or Anhydrite material shall comply with section 423.

424.2.6 Blending Sand

Blending sand shall comply with section 423.

424.2.7 Mineral Filler

Mineral filler shall comply with section 423.

424.2.8 Reclaimed Asphalt Pavement

Reclaimed asphalt pavement shall comply with section 423.

424.2.8 Mix Design

Mix designs shall comply with section 423: except for the following:

Provide a mix design for review by the State Asphalt Engineer developed by a Department approved Private Testing Laboratory with the assistance of the WMA supplier's technical representative. Apply all existing mix design requirements for HMA to the development of the WMA mix design with the following additional requirements.

In addition to the Tensile Strength Ratio (TSR) of the WMA mix design using treated binder as required in Section 423, the TSR of a control mix design without the warm mix additive shall be determined. The TSR of the WMA with the treated binder must be equal to or greater than the TSR of the control mix without the warm mix additive. Additionally the dry tensile strength from the WMA with the treated binder must be equal to or greater than the dry tensile strength of the control mix without the warm mix additive.

The WMA supplier will provide the mixing and compaction temperatures to be used for the construction and testing of the approved mix design. WMA mix design submittals shall include the signature of the WMA additive supplier confirming that the submitted mix design will provide all specified characteristics and properties required by the contract.

The WMA mix design, signed by the Approved Private Testing Laboratory and the WMA additive supplier will be reviewed by the State Asphalt Engineer in accordance with Department procedures, and if found to comply with all requirements, sent to the Project Manager for final acceptance for use by the Department.

424.2.8.1 **Mix Design Adjustment**

Mix design adjustment shall comply with section 423.

424.2.9 **Job Mix Formula**

Job mix formula shall comply with section 423.

424.2.9.1 **Job Mix Formula Adjustment**

Job mix formula adjustments shall comply with section 423.

424.3 **CONSTRUCTION REQUIREMENTS**

424.3.1 **General**

The abbreviation "WMA" will be used instead of "HMA".

424.3.2 **Mix Temperature Requirements**

Do not allow the temperature of the WMA discharged from the mixer to exceed the target mixing temperature designated on the WMA Mix Design by more than 20 °F.

424.3.3 **Addition of Hydrated Lime or Anhydrite Based Material**

Addition of hydrated lime or anhydrite based material shall comply with section 423.

424.3.4 **Equipment**

Equipment shall comply with section 423.

424.3.5 **Placement Operations**

Placement operations shall comply with section 423.

424.3.5.1 Weather Limitations

Do not place WMA on wet or frozen surfaces or if weather conditions prevent proper handling, finishing, and compacting. Place WMA when the Chill Factor is at least 40 F and rising. If the air temperature is 60 F or warmer, do not consider the Chill Factor.

Sampling and Testing

Many Warm-mix additives have a relatively short time of effect. All required sampling and testing must be completed before the effect of the WMA additive has dissipated. If the WMA additive supplier indicates that time is not an issue and that normal sampling and testing procedures can be followed, no amendments or revisions are made here-in to the sampling and testing requirements in Section 423.

If the WMA additive supplier indicates that time is important, a plan must be prepared and submitted by the Contractor showing how all of the required testing will be completed in the designated time. This plan must be reviewed and approved by the WMA additive supplier, by the Department's Project Manager and by the District Laboratory Supervisor prior to the placement of any WMA on the project.

Department procedures will also be developed to insure that all required testing is completed within the designated time. All support (including but not limited to equipment, facilities, space and power) required by the Department to complete all testing within the designated time frame will be provided by the Contractor at no cost to the Department.

Performance and Materials Bond:

Prior to the issuance of a contract order, the successful awarded Contractor(s) must provide a Performance Bond and a Payment and Materials Bond equal to 100% of the total contract order. Said bonds must be provided to the requesting District within ten (10) calendar days after notification by the Department and are to be filed with the District's purchasing office. Failure to comply shall result in order being issued to another vendor and difference being charged back to the awarded Contractor(s).

The Performance Bond is to secure the Department for losses and damages sustained by reason of default by vendor. The materials bond is to guarantee availability of equipment and acceptance of product.

Tax Note:

Prices shall not include state gross receipts or local option tax. Taxes shall be added to the invoice at current rates as a separate item to be paid by users.

Bidding Information:

The prices quoted herein represent the total compensation to be paid by the 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, State and Federal taxes,

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Price Agreement #: 60-805-15-13634

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permits, licenses, fees, and any other items necessary to complete the work provided. The prices quoted in this contract include an amount sufficient to cover such costs.

The conditions and specifications set out in the Invitation to Bid are inseparable and indivisible. Any Vendor, by submitting a bid, agrees to be bound by all such conditions or specifications in the Invitation to Bid, and all other documents required to be submitted shall be returned by the vendor in his/her 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.

All Contractors, on this Price Agreement, must be New Mexico Contractors, as the term is defined in section 13-4-2, N.M.S.A. 1978. Therefore, all Contractors on this Price Agreement shall be appropriately licensed and shall provide their New Mexico Contractor's License numbers as a part of this Price Agreement.

The Contractor(s) 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.

No person shall act as a Contractor without a license by the (Construction Industries) Division classified to cover the type of work to be undertaken. No bid on a contract shall be submitted unless the Contractor has a valid license issued by the (Construction Industries) Division to bid & perform the type of work to be undertaken, (reference 60-13-12, NMSA 1978.

Contractor is requested to indicate their Federal Tax ID Number, New Mexico Gross Receipts or Social Security Number _____.

PUBLIC WORKS MINIMUM WAGE ACT:

This is a Public Works price agreement subject to the provisions of the Public Works Minimum Wage Act, Section 13-4-11 through 13-4-17, et. Seq. NMSA 1978 as amended. Minimum Wage Rates as determined and published by the State Labor Commission, Santa Fe, New Mexico shall be in effect and utilized by the vendor during the term of this price agreement.

If a Contractor or Subcontractor is willfully paying employees covered by the Public Works Minimum Wage Act, lower rates than required, the contractor or subcontractor may lose their right to proceed with the work.

PRICE AGREEMENT ORDER:

For projects over \$60,000.00 where a purchase order has been issued, a Wage Rate Decision number must be requested by the User Agency. The Wage Rate Decision number can be obtained by completing and submitting the New Mexico Department of Work Force Solutions, Public Works request for a Wage Rate Decision form, available at:

<http://www.dws.state.nm.us/landi/WageRateRequestWeb/WageRateRequestForm.aspx>

THE CONTRACTOR AGREES TO:

State of New Mexico
General Services Department
Purchasing Division
Price Agreement #: 60-805-15-13634

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- A. Provide competent supervision and skilled personnel to carry on all work in progress.
- B. Comply with all local, State, and Federal Laws governing safety, health and sanitation. The Contractor shall provide all safeguards, 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 and health of employees on-the-job and the safety of the public, and to protect property in connection with the performance of the work covered by the contract.
- C. 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 Claims Act (41-4-1, et seq., N.M.S.A. 1978 comp) and Section 56-7-1 N.M.S.A. 1978 Comp. and any amendments thereto.
- D. 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.
- E. To be responsible for all cleanup work on the project site and at the equipment storage areas prior to the final inspection and acceptance.

Additionally, the Contractor shall be responsible for all reporting and clean-up of spills which are associated with this Price Agreement and shall report and respond to spills of hazardous materials such as gasoline, diesel, motor oils, solvents, chemicals, toxic and corrosive substances and any other materials which may be considered a threat to the public health or the environment. These reports shall be made immediately to the New Mexico Environmental Department's Emergency Response Team at either (505) 827-4308 or (505) 470-3657 and to the NMDOT's Engineer or designee.

- F. 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.
- G. The Contractor will be responsible to provide all required traffic control which shall be in compliance with the "Manual on Uniform Traffic Control Devices (MUTCD)". The Contractor's Traffic Control Plan shall be reviewed and approved by the Engineer, or his designee, prior to the beginning of any work which requires the contractor to operate Asphalt Laydown and/or Compaction Equipment within the Department's Right-of-Way.

H. The Contractor agrees to furnish all equipment, labor, materials and tools required to perform the work specified. The Contractor shall be responsible for locating a suitable equipment storage area for the storage of his equipment during non-working and night time hours. No storage of his equipment will be allowed within the Department's right-of-way unless prior approval is given by the Engineer or his designee. If such approval is granted, then the Contractor's shall be stored a minimum of thirty (30) feet beyond the edge of the roadway.

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 there from.

(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:
 - a. 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)

(B) Worker's compensation insurance: The Contractor shall also carry Worker's Compensation Insurance or otherwise fully comply 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 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.

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(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).

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

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 Bidder and the State of New Mexico and any Commission, Divisions, or Department thereof.

Escalation Clause:

In the event of a product (asphalt binder) cost increase an escalation request will be reviewed on an individual basis. This measure is not intended to allow any increase in profit margin, only to

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compensate for an actual cost increase. Price decreases, as well as, increases shall apply. If vendor's prices are reduced for any reason, the users shall receive the benefit of such reductions. Price increases will not be retroactive to orders already in process or backorders. Orders will be filled at the price in effect on the date of receipt of the order by the vendor. Orders will be filled at the price in effect on the date of receipt of the order by the vendor.

- Contract item number
- Current item price
- Proposed new price
- Percentage of increase
- Supplier notification of price increase indicating percentage of increase

Payment and Invoicing:

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 days (30) after the date of receipt of written notice from 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 days (30) 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 (30th) 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 1 1/2 percent per month. For purposes 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 day 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 Workers Compensation Insurance Coverage for its employees. If the Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so, the Contract may be canceled effective immediately.

The Department reserves the right to purchase material(s) from any of the awarded Contractor(s) based on the needs of the Department. The Engineer, or Designee, will determine and use the Price Agreement item which best serves the Department's needs, based on cost(s), delivery time, schedule or work, and quality of material(s). All decisions by the Engineer, or his Designee, will be final. The Department may, at its option, haul material(s) from the awarded Contractor's plant, using the Department's trucks. The Department's trucks may, at the Department's option, haul material(s) to any location within the District.

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Acceptance of material(s) will be made at the point of delivery based on tests obtained from the material(s) delivered, prior to final Department acceptance and payment. The Engineer or his designee, shall have the right and authority to reject nonconforming materials supplied by the successful Contractor(s). Materials may be rejected, but shall not be limited to, failure to meet the Department's material specifications or for failure to be delivered within the time specified. Any material that is rejected shall not be paid for by the Department, the State and the Department; it's agents or employees shall not be liable to the Contractor in any way for any damages of any nature whatsoever resulting from the rejection of the material. When materials are rejected, the Contractor shall be informed of the reason for the rejection in writing as soon as practicable after the rejection by the Engineer, or his designee. The Contractor agrees to indemnify the State for any and all losses incurred due to delay in shipment or rejection of material.

Contractor's who are bidding shall promptly notify the Department of any ambiguity, inconsistency or error which they may discover upon the examination of the bidding documents or of the site and local conditions.

The Department shall have the right to reject any or all bids, and in particular to reject a bid not accompanied by the data required by this bidding document, or a bid which is in any way incomplete or irregular.

All work, including the production of materials, and/or deliveries of materials by the awarded Contractor(s) will be performed during the normal working hours of the Department. These hours are Monday through Friday, 7:45 am to 4:00 pm. All work and/or deliveries performed outside of these hours, without the prior written approval of the Department, will not be accepted nor paid for by the Department.

Unless prior written approval has been given by the Department, all contracted paving operations will be conducted continuously during the normal working hours of the Department until the contracted work has been successfully completed by the Contractor. The only exception to this condition will be due to adverse temperature and/or weather conditions as defined in Section 421.341 "Temperature and Weather Limitations". Failure to comply with this condition will be considered by the Department a default of the Contractor's Performance Bond and a breach of the terms and conditions of this Price Agreement.

The Department will provide an Engineer or designee, to inspect these operations. The Engineer or designee, will be responsible for the enforcement and interpretation of the specifications, and his decision will be final. The Contractor shall be responsible for the work to be completed in accordance with these specifications.

At the discretion of the Department, a Pre-Construction meeting with the Contractor may be held at the Department's District #5 office located at 7315 Cerrillos Road, Santa Fe, New Mexico, or at another suitable location, a minimum of five (5) working days prior to the issuance of a notice to proceed or contract order. The purpose of this meeting will be to discuss the details of the subsequent work and establish schedules and/or controls which are acceptable to the Engineer per the terms and conditions set forth in this Price Agreement.

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The evaluation criteria shall be based on the lowest cost for each item based on the estimated quantities listed. The quantities listed are estimated and are for bidding purposes only. The actual requirements will be as determined by the Engineer, or his designee and the quantities may be increased or decreased as necessary to meet actual field requirements. The Department does not guarantee any amount of work.

Questions concerning this Price Agreement shall be directed to , District #5 Maintenance Engineer, at (505) 995-7714.

NOTE:

Multiple vendors may be awarded in San Juan county.

*****Price Agreement will be awarded to vendor(s) within an eighty (80) mile radius to the various locations specified throughout District 5.*****

Items	Approx. Qty.	Unit	Article and Description	Unit Price
001	1,500	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Chama, NM Patrol Yard (4561)	AA)\$145.00 AB)\$110.00
002	1,500	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Tierra Amarilla, NM Patrol Yard (4562)	AA)\$160.00 AB)\$110.00
003	1,500	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Dulce, NM Patrol Yard (4564)	AA)\$135.00 AB)\$115.00
004	2,000	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Farmington Patrol Yard (4565)	AA)\$110.00 AB)\$120.00
005	1,500	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Bloomfield, NM Patrol Yard (4566)	AA)\$110.00 AB)\$125.00
006	1,500	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Shiprock (4567)	AA)\$118.00 AB)\$130.00
007	1,500	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Gallina (4563)	AA)\$150.00 AB)\$115.00

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008	1000	Ton	Hot/Cold Plant Mixed Bituminous Pavement – SP V, using HFE 300 emulsion FOB: Contractor's plant site for deliveries within San Juan County	AA)\$90.00 AB)\$100.00
			Site location: AA) AB)	
009	2000	Ton	HMA, SP IV, Performance Grade Binder 64-22 FOB: Contractor's plant site for deliveries within San Juan County	AA)\$71.00 AB)\$85.00
			Site location: AA) 1106 Hwy.516 Aztec, NM AB)	
010	45	Ton	Hydrated lime to be used at the Department's discretion with Bid Item 010	AA)\$250.00 AB)\$300.00
011	2,000	Ton	HMA, SP IV, Performance Grade Binder 64-22 FOB: Contractor's plant site for deliveries within San Juan County	AA)\$71.00 AB)\$85.00
			Site Location: AA) 1106 Hwy.516 Aztec, NM AB)	
012	45	Ton	Hydrated lime to be used at the Department's discretion with Bid Item 010.	AA)\$250.00 AB)\$300.00
013	1000	Ton	Open Graded Friction Course, Performance Grade Binder 70-28+ FOB: Contractors plant site for deliveries within San Juan County.	AA)\$100.00 AB)\$120.00
			Site location: AA) 1106 Hwy.516 Aztec, NM AB)	
014	45	Ton	Hydrated lime to be used at Department's discretion with bid 012	AA)\$250.00 AB)\$300.00
015		Ton/Mi	Hauling of asphalt material over twenty (20) miles and up to forty (40) miles to locations within San Juan County.	AA)\$0.60 AB)\$1.00
016		Ton/Mi	Hauling of asphalt material up to twenty (20) miles, using either a dump truck with a pup trailer or a tractor with trailers to locations within San Juan County.	AA)\$1.00 AB)\$0.80

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017	Ton/Mi	Hauling of asphalt material over twenty (20) miles and up to forty (40) miles to locations within San Juan County	AA)\$0.60 AB)\$0.65
018	Ton/Mi	Hauling of asphalt material over forty (40) miles to locations within San Juan County	AA)\$0.55 AB)\$0.60
019	200 Hour	Rental of asphalt laydown machine with qualified foreman, operator, screedman, and two (2) rakers (4 hour minimum) within the Farmington,, New Mexico geographical area.	AA)\$550.00 AB)\$500.00

Equipment storage location: AA)2100 Hwy 371
 Farmington, NM
 AB)

020	Mile	Transportation haul charge for the asphalt laydown machine from the Contractor's equipment storage location described in Bid Item 019	AA)\$55.00 AB)\$25.00
021	1000 SY	Compaction of Plant Mix Bituminous Pavement in conformance with Section 401.35 of the Department's (Standard Specifications" within the Farmington, New Mexico geographical area.	AA)\$0.80 AB)\$0.70

Equipment storage location: AA)2100 Hwy 371
 Farmington, NM
 AB)

022	Mile	Transportation haul charge for the asphalt laydown machine from the Contractor's equipment storage location described in Bid Item 021	AA)\$55.00 AB)\$25.00
023	24 Hour	Traffic Control (rural areas) to include all signing and traffic channelization devices for adequate handling of traffic. To be used at the Department's discretion with Bid Item 018.	AA)\$400.00 AB)\$400.00
024	24 Hour	Traffic control urban (within the corporate limits of urban areas with 50,000 population and over). To include all signing and traffic channelization devices for adequate handling of traffic. To be used at the Department's discretion with Bid Item 019.	AA)\$400.00 AB)\$400.00
025	24 Hour	Sequential arrow board as required by the Engineer, his designee or the using agency or with Bid Items 023 & 024.	AA)\$96.00 AB)\$80.00
026	500 Each	Re-established temporary centerline striping w/tabs to be used with Bid Item 019.	AA)\$3.60 AB)\$8.00
027	2,000 Ton	Warm Mix Asphalt, SP IV, Performance Grade Binder 64-22. FOB: Contractor's plant site for deliveries within San Juan County.	AA)\$77.00 AB)\$85.00

Site location: AA) 1106 Hwy.516 Aztec, NM
 AB)Los Ojos or Aztec