



STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT

AWARDED VENDOR

2 VENDORS

Telephone No. _____

**PRICE AGREEMENT
AWARD**

PRICE AGREEMENT NUMBER: 70-805-00-01852

PAYMENT TERMS: SEE PAGE 3

F.O.B.: DESTINATION

DELIVERY: SEE PAGE 3

SHIP TO:

NM DEPARTMENT OF TRANSPORTATION
DISTRICT 3
AS REQUESTED BY USER FOR PROJECTS
NM 87109-0000

INVOICE:

NM DEPARTMENT OF TRANSPORTATION
DISTRICT 3
7500 PAN AMERICAN FWY, NE
PO BOX 91750
ALBUQUERQUE, NM 87199-1750

**CONTRACT ORDERS WILL INDICATE AGENCY
CONTACT PERSON**

Procurement Specialist: JENNETTE GARCIA *JG*

Telephone No.: 505 - 476-3038

COMMODITY: CINDERS, CRUSHED, RED SCORIA

TERM: JULY 31, 2007 THRU JULY 30, 2008

THIS CONTRACT IS MADE SUBJECT TO THE "TERMS AND CONDITIONS" SHOWN ON THE REVERSE SIDE OF THIS PAGE, AND AS INDICATED IN THIS CONTRACT.

THIS CONTRACT CONTAINS _____ SHEETS.

ACCEPTED FOR THE STATE OF NEW MEXICO

Michael R. A. Fox

NEW MEXICO STATE PURCHASING AGENT

DATE: 7/26/07

PURCHASING DIVISION, 1100 ST. FRANCIS DRIVE, PO BOX 26110, SANTA FE, NM 87502-0110 (505) 827-0472

AB

STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT
PURCHASING DIVISION

TERMS AND CONDITIONS UNLESS OTHERWISE SPECIFIED

1. **General:** When the State Purchasing Agent 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 elsewhere in this order.
3. **Assignment**
 - A. Neither the order, nor any interest therein, nor claim there under, shall be assigned or transferred by the Vendor, except as set forth in subparagraph 3B below or as expressly authorized in writing by the state purchasing agent's office. 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 20 days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise or invoice, whichever is later.
6. **Inspection:** Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for non-conformance 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 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 to any customer for such supplies or services, and that 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 purchase 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 shipment not accompanied by a packing ticket.
 - B. The Vendor's invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices shall be rendered for each and every complete shipment. Invoice 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, 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 and remedies 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.
13. **Non-discrimination:** Vendors 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. 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 the Workers' Compensation Act and applicable rules when required to do so, this {Agreement} may be terminated by the contracting agency.
18. **Arbitration:** Any controversy or claim arising between the parties shall be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

State of New Mexico
General Services Department
Purchasing Division

GSD/PD 002-A6 (Rev.8/06)

Department
Price Agreement

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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 item 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 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 INSTRUCTUINS

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 NM State purchasing Agent 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 NM State Purchasing Agent. Amendments affecting price adjustments and/or extension of contract expiration of contract are not allowed unless specifically provided for in the bid and contract documents.

ARTICLE VII – ISSUANCE OR ORDERS

Only written signed orders are valid under this Price Agreement. Form SPD-001A is the approved form for state agencies issuing Contract orders under this Price Agreement. Other authorized government entities may utilize Form SPD-001A or forms adapted by them for their own use.

ARTIUCLE 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
CONTRACT #: 70-805-00-01852

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ITEM * APPROX * UNIT *	ARTICLE AND DESCRIPTION	UNIT PRICE
* QTY *		

AWARDED VENDORS:

(1) 83R24
0000009352
A DURAN TRUCKING, INC.
PO BOX 1237
LOS LUNAS, NM 87031
505-975-4869

**NET 30 DAYS
AS NEEDED**

(2) 16C96
0000052204
OLIVAS TRUCKING
PO BOX 504
MORA, NM 87732
505-350-9749

**NET 15
AS REQUESTED**

STATE OF NEW MEXICO
 GENERAL SERVICES DEPARTMENT
 PURCHASING DIVISION
 CONTRACT #: 70-805-00-01852

ITEM * APPROX* UNIT *	ARTICLE AND DESCRIPTION	* UNIT PRICE
* QTY *		*

THE TERM OF THIS 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 AGREEMENT SHALL NOT EXCEED FOUR (4) YEARS.

ESCALATION CLAUSE

IN THE EVENT OF A PRODUCT COST INCREASE AN ESCALATION REQUEST WILL BE REVIEWED BY THIS OFFICE ON AN INDIVIDUAL BASIS. PLEASE BE AWARE THIS MEASURE IS NOT INTENDED TO ALLOW ANY INCREASE IN PROFIT MARGIN, ONLY TO COMPENSATE FOR AN ACTUAL COST INCREASE.

F.O.B. DESIGNATED DELIVERY POINT

RED SCORIA CINDER MATERIAL IS TO BE AVAILABLE FOR DELIVERY WITHIN FIVE (5) DAYS AFTER RECEIPT OF ORDER FROM THE AUTHORIZED REPRESENTATIVE.

QUANTITIES ARE ESTIMATES, EXACT USAGE SHALL BE DETERMINED BY THE DISTRICT ENGINEER, DESIGNEE OR ORDERING ACTIVITY.

RED SCORIA CINDER MATERIAL SPECIFICATIONS:

SIEVE SIZE *****	% PASSING *****
1/2 IN.	100
3/8 IN.	70-100
#200	0-16

0001	750.0	CU.YD	CINDER RED SCORIA	
			CINDER, RED SCORIA MATERIAL, CRUSHED OR SCREENED. FOR USE ON SNOW AND ICE CONTROL F.O.B. PATROL YARD 43-53, BERNALILLO, N.M.	
(1)				\$ 17.00
0002	750.0	CU.YD	CINDER RED SCORIA	
			SAME AS ITEM 1, EXCEPT F.O.B. PATROL YARD 4354 BELEN, N.M.	
(1)				\$ 22.10
0003	750.0	CU.YD	CINDER RED SCORIA	
			SAME AS ITEM 1, EXCEPT F.O.B. PATROL YARD 4355 VOLCANO RD NW ALBURQUERQUE, N.M.	
(2)				\$ 20.00

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ITEM	* APPROX *	UNIT *	ARTICLE AND DESCRIPTION	* UNIT PRICE
	* QTY *			
0004	750.0	CU.YD	CINDER RED SCORIA	
			SAME AS ITEM 1, EXCEPT F.O.B. PATROL YARD 4356 3250 BROADWAY SE ALBUQUERQUE, N.M.	
(1)				\$ 20.00
0005	2000.0	CU.YD	CINDER RED SCORIA	
			SAME AS ITEM 1, EXCEPT F.O.B. PATROL YARD 4357 TIJERAS, N.M.	
(2)				\$ 20.00
0006	750.0	CU.YD	CINDER RED SCORIA	
			SAME AS ITEM 1, EXCEPT F.O.B. STOCKPILE I-25 AT THE WALDO INTERCHANGE EXIT #267 (FOR BERNALILLO PATROL 4353.)	
(1)				\$ 15.00
0007	2000.0	CU.YD	CINDER RED SCORIA	
			SAME AS ITEM 0001, EXCEPT F.O.B. TO OTHER AUTHORIZED AGENCIES WITHIN A TWENTY (20) MILE RADIUS OF THE I-25 & I-40 INTERSECTION IN ALBUQUERQUE, NM.	
(2)				\$ 20.00