

Pricing Agreement#201601032-F(I)

New Mexico State University Pricing Agreement for Goods and/or Services

This agreement effective this 25th day of October 2016 is entered into between the Regents of New Mexico State University, hereinafter referred to as “NMSU”, and **Independent Hardware Inc**, hereinafter referred to as “Contractor”.

1. SERVICES AND/OR GOODS TO BE PROVIDED: Contractor shall provide the good(s) and/or service(s), as defined in this agreement, on an “as ordered” basis. No funds are obligated under this Pricing Agreement. Funds are obligated by purchase orders on an “as needed” basis. Contractor shall receive separate individual Purchase Orders for each individual requests. NMSU makes no guarantee as to the volume of goods which may be purchased under this Agreement. Prices are fixed for the first year of a Pricing Agreement. Thereafter, in the event of a product cost increase an escalation request will be reviewed by NMSU. Escalation requests are only to compensate for an actual cost increase and will not be considered for an increase in profit margin. Contractor shall notify NMSU if a cost decrease occurs and will adjust pricing accordingly. NMSU shall review the request by Contractor for price escalation and determine whether or not to accept such a request. Such requests must be made at least ninety (90) days prior to the expiration of the current contract term.

2. PRICING AGREEMENT DOCUMENTS: The Agreement shall be comprised of this agreement document, its attachments and all document referenced herein. As applicable, the Agreement shall also include all Requests for Proposal or bid documents, including Contractor’s response, Referenced Specifications and/or Scope of Work, Special Conditions, Technical Specifications, Purchase Order Terms and Conditions, and all negotiation records, which are incorporated herein and made a part of the Agreement. In instances where there exists a conflict between any of the Pricing Agreement described above, this Agreement plus attachments hereto, negotiation records, NMSU’s solicitation documents, and Contractor’s response to the solicitation, in that order, shall control the interpretation of the parties’ respective rights and obligations.

New Mexico State University Bid Number: 201601032-F
Contractors Proposal Dated: 6/27/16 Submitted by: Frank Stanco
Other: _____

3. TERM: The period of performance for this Pricing Agreement shall commence **10/25/2016** and upon mutual consent be renewed for up to **3** additional years, not to exceed a total of **4** years.

4. COST AND PAYMENT: Contractor shall be paid for goods/services rendered satisfactorily per the negotiated fees and schedules incorporated hereto. All payment will be arrears. Payment shall be made per request upon receipt of a detailed invoice. The invoice submitted shall note the purchase order number and must be delivered to the Accounts Payable Department at the address noted on Purchase Order.

5. TAXES: NMSU is exempt from paying taxes on the acquisition of tangible personal property. Should any equipment provided or services rendered fall within a taxation category requiring New Mexico Gross Receipts Tax, as defined by the State of New Mexico Taxation and Revenue Department, Contractor shall be responsible for paying those taxes. Charges for any taxes shall be a separate line on all invoices.

6. REPORTING: Contractor shall have available to NMSU detailed records/reports documenting that Contractor is extending the agreed upon pricing for good(s) and/or service(s) requested by NMSU Departments. Contractors that repeatedly fail to extend the established agreed upon pricing may be given termination notice in accordance with Termination Clause (Section 13 of this agreement).

7. AUDIT: NMSU reserves the right to audit Contractor's records associated with this contract at any time during the contract period and for a period of up to three years following the expiration or termination of the agreement. Such audit may be conducted by NMSU personnel or a third party under contract with NMSU. NMSU shall give Contractor reasonable notice prior to the conduct of any audit and upon receiving the notice from NMSU, Contractor agrees to fully cooperate with the auditors. If Contractor subcontracts any portion of its obligation to another party, Contractor shall guarantee NMSU's access to books and records of such party.

8. AMENDMENTS: This Pricing Agreement shall not be altered, changed, or amended except by written instrument signed by both parties.

9. ASSIGNMENTS: Contractor shall not assign nor delegate specific duties as part of this Pricing Agreement nor transfer any interest nor assign any claims for money due or to become due under this Pricing Agreement without the written consent of NMSU.

10. PROCUREMENT UNDER EXISTING CONTRACTS: In accordance with NMSA 13-1-129, Contractor is hereby notified that other governmental entities within the State of New Mexico, or as otherwise allowed by their respective governing directives, may contract for services with Contractor. Contractual engagements accomplished under this provision shall be solely between Contractor and the contracting entity with no obligation by the Regents of New Mexico State University.

11. NON-APPROPRIATION: NMSU's obligation to make payment under the terms of this Pricing Agreement is contingent upon its appropriation of sufficient funds to make those payments. If NMSU does not appropriate funds for the continuation of this procurement, this procurement will terminate upon written notice of that effect to Contractor. NMSU determination that sufficient funds have not been appropriated is firm, binding and not subject to review.

12. PROCUREMENT CODE: The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

13. TERMINATION: Either party may terminate this contract as follows:

A. Termination by Contractor

- (1.) Contractor may terminate this contract only if NMSU fails to comply with any provisions of this contract and after receiving notice of the noncompliance NMSU fails to cure the noncompliance within (10) ten days, or
- (2.) By written mutual agreement between Contractor and NMSU.

B. Termination by NMSU

(1.) For Cause:

- a. The occurrence of either one of the following events will justify termination for cause: Contractor's persistent failure to perform the work in accordance with the Contract Documents (including but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment) or Contractor's violation in any substantial way of any provisions of this contract.
- b. If either one of the events identified in above paragraph occur NMSU may, after giving Contractor (and the surety, if any) ten days written notice, terminate the service of Contractor, exclude Contractor from site, and take possession of the work. Contractor shall be paid for project cost incurred up to the date of termination but shall not be paid for loss of profits resulting from such termination.
- c. Where Contractor's services have been so terminated by NMSU, the termination will not affect any rights or remedies of NMSU against contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by NMSU will not release Contractor from liability.

(2) For Convenience:

- a. Upon ten days written notice to contractor, NMSU may, without cause and without prejudice to any other right or remedy of NMSU, elect to terminate the contract. In such case, Contractor shall be paid (without duplication of any items):
- b. for completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination,
- c. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the contract document in connection with uncompleted work.
- d. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

14. INDEMNIFICATION: Contractor shall be responsible for damage to persons or property that occurs as a result of his fault or negligence, or that of any of his employees, agents or subcontractors. He shall save and hold harmless NMSU against any and all loss, cost, damage, claims, expense or liability in connection with the performance of the contract. Any equipment or facilities damaged by Contractors' operation shall be repaired and/or restored to their original condition at Contractor's expense. Contractor shall at all times keep in force liability limits as outlined in Attachment A of this agreement. Failure to maintain current coverage in the amounts stated may result in termination of this agreement.

15. INDEPENDENT CONTRACTOR: Contractor is an independent contractor performing services for NMSU. Contractor shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of NMSU as a result of this procurement.

16. DEBARMENT OR SUSPENSION: A business (contractor, subcontractor or supplier) that has either been debarred or suspended pursuant to the requirements of 13-1-177 through 13-1-180, and 13-4-11 through 13-4-17 NMSA 1978 as amended, shall not be permitted to do business with NMSU and shall not be considered for award of the contract during the period for which it is debarred or suspended with NMSU

17. CONFLICT OF INTEREST: By signing this agreement, Contractor certifies that no relationship exists between Contractor and NMSU that interferes with fair competition or is a conflict of interest; and no relationship exists between such propose and another person or firm that constitutes a conflict of interest that is adverse to NMSU.

18. GOVERNING LAW: This Agreement will be interpreted and governed by the laws of the State of New Mexico.

19. OTHER APPLICABLE LAWS: Any other provisions required to be included in a contract of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

20. FEDERAL PURCHASES: If purchases are from a Federal Contract/Grant. The Federal Acquisition Regulations (FARS) apply and may be viewed at purchasing.nmsu.edu.

21. SEVERABILITY: If any provision of the resultant pricing agreement is found invalid or unenforceable, the remainder of the resultant sales agreement will be enforced to the maximum extent permissible and the legality and enforceability of the other provisions of the resultant agreement will not be affected.

22. NON-DISCLOSURE: Vendor shall not disclose any information relating to students, and employees of NMSU other than such information that may be authorized by the individual student or employee. Vendor agrees to indemnify and hold harmless NMSU from any damages, claims, liabilities, and costs including reasonable attorney fees in the event any unauthorized release of such information occurs.

NEW MEXICO STATE UNIVERSITY

BY: Bill Harty Date: 10/25/16
For the Regents of NMSU

Bill Harty
Director of Procurement Services

John Kuckens Buyer II NMSU

CONTRACTOR?

BY: Frank Stanco Date: 8/31/2016

Printed Name: FRANK STANCO Title: PRESIDENT

Business/Order Contact Information:

Name: FRANK STANCO JR E-mail: FSJ@INDEPENDENTHARDWARE.COM

Phone: 800-346-9464 X603 Fax: 215-922-6552

Website: WWW.INDEPENDENTHARDWARE.COM

Contractor's Liability Insurance

The contractor shall purchase and maintain statutory limits of Worker's Compensation, Public Liability and Automobile Liability as approved by the Regents at the time of signing of the contract. The Regents shall be listed as a loss payee and/or additional insured.

Worker's Compensation, Public Liability and Automobile Liability shall include at least the following coverage:

WORKER'S COMPENSATION INSURANCE:

The contractor shall procure and shall maintain during the life of this contract Worker's Compensation insurance as required by applicable State law for all Contractor's employees to be engaged at the site of the project under this project and in case of any such work sublet, the Contractor shall require the subcontractor or sub subcontractor similarly to provide Worker's Compensation Insurance for all the subcontractor's or sub subcontractor's Workers which are covered under the Contractor's Worker's Compensation insurance. In case any class of employee engaged in work on the project under this contract is not protected under a Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor or sub subcontractor to provide Employer's Insurance in an amount of not less than \$500,000.

CONTRACTOR'S PUBLIC LIABILITY INSURANCE:

The contractor shall maintain liability insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-4-1 et.seq. NMSA 1978". The insurance must remain in force for the life of the contract including all contract extensions or renewals. The limits effective July 1, 2008 (ref: Section 41-4-19) are:

\$400,000 per person/\$750,000 per occurrence plus \$300,000 for medical and \$200,000 for a total minimum liability of \$1,000,000 per occurrence. (ref: Section 41-4-28).

CONTRACTORS VEHICLE LIABILITY INSURANCE:

The Contractor shall procure and shall maintain during the life of this contract Vehicle Liability Insurance coverage "equal to the maximum liability amounts set forth in the New Mexico Tort Claims Act Section 41-4-1 et.seq. NMSA 1978". The insurance must remain in force for the life of the contract including all contract extensions and renewals. The limits effective July 1, 1992 are:

Bodily Injury	\$750,000 Each Occurrence
Property Damage	\$200,000 Each Occurrence

Percentage discount for items not listed but available through your company					
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Lighting

Item Description	2011 Average Usage	Manufacturer Part #	List Price	% Discount	Final Price
Ballast for 1 or 2 F-32 T8 Lamps (Ea)	500 Ea		/Ea		
Ballast for 1 or 2 F-34 T12 Lamps (Ea)	500 Ea		/Ea		
Ballast for 2 F-96 T12 Lamps (Ea)	50 Ea		/Ea		
Ballast Fulham Racehorse 3 for Fluorescent Lamps (Ea)	100 Ea		/Ea		
F-32 Fluorescent Lamp T8/ADV835EW/ALTO/28Watt	10,000 Ea		/Ea		
F-34 T12 Fluorescent Lamp Cool White (Ea)	14,500 Ea		/Ea		
150 Watt High Pressure Sodium Mogul Base Lamp (Ea)	500 Ea		/Ea		
250 Watt High Pressure Sodium Mogul Base Lamp (Ea)	500 Ea		/Ea		
Percentage discount for items not listed but available through your company					

Locks/Keys INDEPENDENT HARDWARE INC. (800) 346-9464 X603

Item Description	2011 Average Usage	Manufacturer Part #	List Price	% Discount	Final Price
American Pad Lock (Ea)	500 Ea	AMAA5200D	21.94/Ea	53.5	\$10.20 EA.
American Pad Lock Key Blank (Ea)	500 Ea	AMAAK5BOX	/Ea 33.62	53.5	\$15.63 BX.
KwikSet Bed & Bath Knob (Ea)	500 Ea	KWI300T36AL	20.00/Ea	59	\$8.20 EA.
KwikSet Key Blanks (Ea)	500 Ea	KWI81063-009	1.45/Ea	55	\$.65 EA.
Norton ADA Adjustable Closure (Ea)	500 Ea	NOR1601BFSN6 89	225 /Ea	75	\$56.25 EA.
Item Description	2011 Average Usage	Manufacturer Part #	List Price	% Discount	Final Price
Von Duprin Dummy Trim (Ea)	500 Ea	VON990DT26D	212 /Ea	52	\$101.76 EA
Von Duprin Night Latch Trim (Ea)	500 Ea	VON990NL26D	227 /Ea	52	\$108.96 EA
Von Duprin Exit only Panic (Ea)	500 Ea	VON99EO26D	1163/Ea	53	\$546.61 EA
Yale Grade 1 Storeroom Lever (Ea)	500 Ea	YALAU5405LN2 6D	513 /Ea	57	\$220.59 EA.

Independent

INDEPENDENT HARDWARE INC. (800) 346-9464 X603

Yale Grade 1 Entry Lever (Ea)	500 Ea	YALAU5407LN2 6D	/Ea 513.00	57	\$220.59 EA.
Yale Grade 1 Classroom Lever (Ea)	500 Ea	YALAU5468LN2 6D	/Ea 513.00	57	\$220.59 EA.
Trilogy Prox Reader (Ea)	500 Ea	ALAPDL300026 D	/Ea 1730.00	56	\$761.20 EA.
Marks Grade 1 Entry Lever (Ea)	500 Ea	MAR195AB/26D	410 /Ea	79	\$86.10 EA.
Marks Tail Piece (Ea)	50 Ea	MARF1903-C	7.00 /Ea	70	\$2.10 EA.
Marks DL Latch (Ea)	500 Ea	MAR1834A/32D	84.00/Ea	70	\$25.20 EA.
Marks Strike (Ea)	500 Ea	MAR1136/32D	8.00 /Ea	70	\$2.40 EA.
Marks Strike (Ea)	500 Ea	MAR1135/32D	21.00/Ea	70	\$6.30 EA.
Marks Dormitory Lever (Ea)	500 Ea	MAR5CL92F/32 DLH-G3	/Ea 683.00	81	\$129.77 EA.
Marks Dormitory Lever (Ea)	500 Ea	MAR5CL92F/32 DRH-G3	/Ea 683.00	81	\$129.77 EA.
Schlage Everest/Primus Core (Ea)	500 Ea	SCH40- 700C234626	/Ea 118.00	55	\$53.10 EA.
Schlage Primus Key Blanks (Ea)	500 Ea	SCH35-004C234	7.10 /Ea	55	\$3.20 EA.
Schlage Everest/Primus Core (Ea)	500 Ea	SCH09- 764C234626	/Ea 829.00	55	\$373.05 EA.
1-1/8 Primus Mortise Cylinder (Ea)	500 Ea	SCP20- 701C234626	/Ea 128.00	55	\$57.60
Percentage discount for items not listed but available through your company				52%	

Lumber

Item Description	2011 Average Usage	Manufacturer Part #	List Price	% Discount	Final Price
2" x 4" x 8' (Ea) (SPF/HF)	1000 Ea		/Ea		
2" x 4" x 10' (Ea) (SPF/HF)	1000 Ea		/Ea		
2" x 4" x 12' (Ea) (SPF/HF)	1000 Ea		/Ea		
2" x 4" x 14' (Ea) (SPF/HF)	1000 Ea		/Ea		
2" x 6" x 8' (Ea) (SPF/HF)	1000 Ea		/Ea		
2" x 6" x 10' (Ea) (SPF/HF)	1000 Ea		/Ea		
2" x 6" x 12' (Ea) (SPF/HF)	1000 Ea		/Ea		
Item Description	2011 Average Usage	Manufacturer Part #	List Price	% Discount	Final Price
2" x 6" x 14' (Ea) (SPF/HF)	1000 Ea		/Ea		
½" x 4' x 8' Plywood (Ea)	1000 Ea		/Ea		
5/8" x 4' x 8' Plywood (Ea)	1000 Ea		/Ea		
¾" x 4' x 8' Plywood (Ea)	1000 Ea		/Ea		
1" x 4' x 8' Plywood (Ea)	1000 Ea		/Ea		
½" x 4' x 8' Sheet Rock (Ea)	1000 Ea		/Ea		