

DO NOT INVOICE THIS ADDRESS

City and County of Denver  
 Purchasing Division  
 201 W. Colfax Ave Dept. 304  
 Denver, CO 80202  
 United States of America  
 Ph: 720-913-8100 Fax: 720-913-8101



|                       |  |
|-----------------------|--|
| Purchase Order Number | PO-00064047  |
| Purchase Order Date   | Apr 11, 2019   |
| Contract ID           |  |
| Payment Terms         | Immediate  |
| Payment Type          | Check  |
| Buyer                 | Andrew Miskell<br>(720) 913-8159<br>Andrew.Miskell@denvergov.org |

| Supplier  |
|---|
| ASTEC INDUSTRIES<br>PO BOX 934331<br>ATLANTA, GA 31193-4331<br>United States of America<br>Ph: (423) 867-4210 |

| Ship-To  |
|--|
| Asphalt Plant<br>5440 Roslyn St - Door G-1<br>Denver, CO 80216<br>United States of America<br>Dean Rzeszut |

| Bill To   |
|---|
| Bill To Same As Ship To<br>Denver, CO 80202<br>United States of America<br>Dean Rzeszut |

| Currency        | Total Lines Amount | Tax Exempt            | Total PO Amount |
|-----------------|--------------------|-----------------------|-----------------|
| USD             | \$1,841,820.00     | 98-02890-0000         | \$1,841,820.00  |
| Shipping Terms  | Shipping Method    | Shipping Instructions |                 |
| FOB Destination | Common Carrier     |                       |                 |

| Goods Lines  |           |                          |   |            |                 |          |              |              |
|--|-----------|--------------------------|---|------------|-----------------|----------|--------------|--------------|
| Line Number  | Item Name | Supplier Item Identifier | Description   | Due Date   | Unit of Measure | Quantity | Unit Price   | Line Amount  |
| 2  |           |                          | RDM-VPAC-50-7<br>Stack Temperature<br>Control System for 7'<br>Double Barrel                  | 09/01/2019 | Each            | 1        | \$86,540.00  | \$86,540.00  |
| This line item is a cost of the asset.             |           |                          |   |            |                 |          |              |              |
| Note: For use with Double Barrel Sold on WO#97-254 |           |                          |   |            |                 |          |              |              |
| 4  |           |                          | ITC-3612<br>36" Inclined Traverse<br>Conveyor (Existing Silo<br>#2 to #3)                     | 09/01/2019 | Each            | 1        | \$88,620.00  | \$88,620.00  |
| This line item is a cost of the asset.             |           |                          |   |            |                 |          |              |              |
| 6  |           |                          | TC-3623-IC<br>Inclined 36" x 23'<br>Crossover Traverse<br>Conveyor (Silo Row #1<br>to Row #2) | 09/01/2019 | Each            | 1        | \$150,170.00 | \$150,170.00 |
| This line item is a cost of the asset.             |           |                          |   |            |                 |          |              |              |
| 8  |           |                          | NGW-300<br>300 Ton New<br>Generation Storage Silo,<br>14' Diameter                            | 09/01/2019 | Each            | 3        | \$276,913.33 | \$830,740.00 |
| This line item is a cost of the asset.             |           |                          |   |            |                 |          |              |              |
| 9  |           |                          | ITC-3614<br>36" Inclined Traverse<br>Conveyor   | 09/01/2019 | Each            | 1        | \$94,810.00  | \$94,810.00  |
| This line item is a cost of the asset.             |           |                          |   |            |                 |          |              |              |

| Goods Lines                                      |           |                          |   |            |                 |          |             |             |
|--|-----------|--------------------------|---|------------|-----------------|----------|-------------|-------------|
| Line Number                                      | Item Name | Supplier Item Identifier | Description   | Due Date   | Unit of Measure | Quantity | Unit Price  | Line Amount |
| 10   |           |                          | TC-3614<br>36" Traverse Conveyor  | 09/01/2019 | Each            | 1        | \$89,060.00 | \$89,060.00 |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |
| 11   |           |                          | LPSII-10011<br>11' x 100' Low Profile<br>Truck Scale                                    | 09/01/2019 | Each            | 1        | \$84,110.00 | \$84,110.00 |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |
| 12   |           |                          | BSP-MISC<br>Miscellaneous Blue<br>Smoke Equipment to<br>Complete System on<br>WO#97-254 | 09/01/2019 | Each            | 1        | \$44,410.00 | \$44,410.00 |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |
| Note: Customer to supply a Burner Diffusion Ring |           |                          |   |            |                 |          |             |             |
| 13   |           |                          | WM-2000<br>Additional Scale Input   | 09/01/2019 | Each            | 1        | \$7,990.00  | \$7,990.00  |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |
| 14   |           |                          | SCIII<br>Silo Control System<br>(stand-alone)   | 09/01/2019 | Each            | 1        | \$71,330.00 | \$71,330.00 |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |
| 15   |           |                          | BCIII<br>Burner Control System<br>(standalone) (Nexus for<br>Canada)                    | 09/01/2019 | Each            | 1        | \$28,580.00 | \$28,580.00 |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |
| 16   |           |                          | FLMSCNR<br>Fireye Flame Scanner   | 09/01/2019 | Each            | 2        | \$600.00    | \$1,200.00  |
| This line item is a cost of the asset.           |           |                          |   |            |                 |          |             |             |

| Service Lines   |           |   |            |              |
|---|-----------|---|------------|--------------|
| Line Number   | Item Name | Description   | Due Date   | Line Amount  |
| 1   |           | SERVTEC-20<br>Service tech to install<br>controls and train<br>operator                           | 09/01/2019 | \$30,610.00  |
| SCIII and BCIII controls console install and training only<br>Equipment erection not included |           |   |            |              |
| 3   |           | Freight Estimate for the<br>following:<br>900 Ton ASTEC Long<br>Term Storage System<br>for 97-254 | 09/01/2019 | \$124,720.00 |
| 5   |           | Installation of 3<br>Additional 300 Ton<br>Storage Silos & Retrofit<br>Equipment                  | 09/01/2019 | \$68,930.00  |
| 7   |           | Engineered Foundation<br>Drawings   | 09/01/2019 | \$40,000.00  |

Agency Contact: Dean Rzeszut | Dean.Rzeszut@denvergov.org

Vendor Contact: Ken Hood | (423) 867-4210 | KHood@AstecInc.com

REFER TO EXHIBIT "A" FOR PRICING, SERVICE, INSTALLATION CONTRACT , AND FREIGHT CONTRACT.

REFER TO EXHIBIT "B" FOR THE AMENDED CITY OF DENVER TERMS AND CONDITIONS THAT HAVE BEEN AGREED UPON. EXHIBIT B SHALL SUPERSEDE AND REPLACE THE GENERAL TERMS AND CONDITIONS THAT ACCOMPANY ALL CITY PURCHASE ORDERS.

REFER TO EXHIBIT "C" FOR THE AMENDED ASTEC TERMS AND CONDITIONS THAT HAVE BEEN AGREED UPON, SALES PROPOSAL, AND SOFTWARE.

VENDOR: You must contact the agency contact listed above to confirm this order.

Purchase Order price listed herein includes all shipping and handling.

Payment of Prevailing Wages is a MANDATORY requirement of this Purchase Order. For information on Prevailing Wage requirements please contact the Auditor' Office at (720) 913-5000 or auditor@denvergov.org.

All invoicing must match the purchase order exactly and contain the purchase order number. All invoices must be sent directly to the bill to address listed on the purchase order, this address may be different than the ship to address. Changes to this purchase are not valid without prior approval from purchasing. The terms and conditions of this purchase order shall govern and supersede all Supplier terms and conditions.

For additional questions regarding this purchase order, please contact the Agency Contact listed above.

ALL INVOICING AND CORRESPONDENCE MUST CONTAIN THE PURCHASE ORDER NUMBER IN FULL (PO-#####)

This purchase is pursuant to DRMC 20-64(A)(1) - Sole Source

This purchase is pursuant to DRMC 3.26(e) - City Council Approval, and is considered to be void without such action This purchase is contingent upon a final approval by the Denver City Council.



Authorized By

By accepting this Purchase Order you agree to the Terms and Conditions of the General Services Purchasing Division.  
Follow the URL provided to the Purchase Order Terms and Conditions –  
<http://www.denvergov.org/content/denvergov/en/purchasing-main-page/POterms.html>

**CCD EXHIBIT A - PO-00064047**

# **ASTE<sup>C</sup>**

**THE WORLD LEADER IN ASPHALT PRODUCTION EQUIPMENT**

**SUPPORT • TECHNOLOGY • TRAINING**

**SALES PROPOSAL  
PREPARED EXCLUSIVELY FOR**

**Mr. Dean Rzeszut  
City and County of Denver  
1390 Decatur Street  
Denver, CO 80204  
Main Phone: (303) 640-3509**

**PROPOSAL NUMBER: 18CK0878.2 for  
(3) ADDITIONAL 300 TON SILOS & RETROFIT EQUIPMENT  
FOR FACILITY SOLD ON WO# 97-254**

**Presented By:**

**Kent Hood / Justin Vermeer  
Regional Sales Manager**

**March 11, 2019**



**4101 Jerome Avenue Chattanooga, TN. 37407 | [www.astecinc.com](http://www.astecinc.com) | 423.867.4210**

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## SALES PROPOSAL EQUIPMENT DESCRIPTION AND PRICE

**PARTIES:** Astec, Inc. shall be referred to as "Astec" in this Sales Proposal, City and County of Denver shall be referred to as "Purchaser" in this Sales Proposal.

### (3) ADDITIONAL 300 TON SILOS & RETROFIT EQUIPMENT

- 1 RDM-VPAC-50-7 Stack Temperature Control System for 7' Double Barrel®
- 1 ITC-3612 36" Inclined Traverse Conveyor (EXISTING SILO #2 to #3)
- 1 TC-3623-IC Inclined 36" x 23' Crossover Traverse Conveyor (SILO ROW #1 to ROW #2)
- 3 NGW-300 300 Ton New Generation Storage Silo, 14' Diameter
- 1 ITC-3614 36" Inclined Traverse Conveyor
- 1 TC-3614 36" Traverse Conveyor
- 1 LPSII-10011 11' x 100' Low Profile Truck Scale
- 1 BSP-MISC Miscellaneous Blue Smoke Equipment to Complete System on WO# 97-254
- 1 SCIII Silo Control System (stand-alone)
- 1 BCIII Burner Control System (standalone) (Nexus for Canada)
- 2 FLMSCNR Fireeye Flame Scanner
- 1 SERVTEC-20 Service Tech to Install Controls and Train Operator

**Net Price, FCA Astec, Inc., Factory: \$1,648,170.00 (USD)**

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## **(3) ADDITIONAL 300 TON SILOS & RETROFIT EQUIPMENT FOR FACILITY SOLD ON WO# 97-254 as per the following specifications:**

### **1 RDM-VPAC-50-7 Stack Temperature Control System for 7' Double Barrel®**

The V-PAC is a patent pending system designed to automatically control stack temperature via drum rotation speed to an operator-entered set-point. The drum rotation speed in conjunction with Astec's "V" flights allow production of Hot Mix Asphalt or Warm Mix Asphalt across the range of mix types from WMA to OGFC up to 50% RAP without any adjustment or changing of flights from mix to mix. The system enables the avoidance of mud in a too-cold baghouse as well as adverse effects of excessively hot exhaust such as high fuel consumption, reduced production and bag damage.

#### Notes:

1. Existing cables to Double Barrel to be reused.
2. Installation by customer.
3. Astec installation available at standard daily rates.
4. Drum Speed Controller as Stand-Alone for PMII.
5. Drum Speed Controller integrated with PMIII & TCII.

#### Includes

- |   |       |  |
|---|-------|--|
| 1 | SF.01 | One (1) Set V-Flights                            |
| 1 | SF.02 | VFD Drive for Drum in Stand Alone Panel (150 HP) |
| 1 | SF.03 | Baghouse Stack Temp Drum Speed Controller        |

*Note: For use with Double Barrel Sold on WO# 97-254*

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## 1 ITC-3612 36" Inclined Traverse Conveyor (EXISTING SILO #2 to #3)

A horizontal traverse conveyor 30" deep x 36" wide by 15'-0" long transfers hot mix from a drag conveyor or bucket elevator to the second silo. The traverse conveyor is equipped with 30 HP TEFC motor and shaft mounted reducer, 4" pitch heavy-duty roller chain, 5" deep x 1/2" thick x 34" wide flights, Ni-Hard liners on the bottom and 8" high on sides, segmented head sprockets, heat on the bottom, 1" fiberglass insulation on bottom, and hinged 14 gauge steel plate covers. The idler rolls are 10-3/4" diameter x 1-7/8" wide x 3/8" thick floating-type with single 3/8" thick diaphragms to prevent premature shaft breakage. The idler shafts are 2-7/16" in diameter. The conveyor headshaft and tailshaft is 2-15/16" in diameter AISI 4150 cold rolled steel. The headshaft sprocket is hardened to 450 Brinell.

### Includes

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.02 To incline the traverse to feed another traverse
- 1 OF.03 Walkway along one side
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

## 1 TC-3623-IC Inclined 36" x 23' Crossover Traverse Conveyor (SILO ROW #1 to ROW #2)

An inclined crossover traverse conveyor 30" deep x 36" wide by 20'-0" long transfers hot mix from a drag conveyor to silos located over a second truck scale. The traverse conveyor is equipped with 30 HP TEFC motor and shaft mounted reducer, 4" pitch heavy-duty roller chain, 5" deep x 1/2" thick x 34" wide flights, Ni-Hard liners on the bottom and 8" high on sides, segmented head sprockets, heat on the bottom, 1" fiberglass insulation on bottom, and hinged 14 gauge steel plate covers. The idler rolls are 10-3/4" diameter x 1-7/8" wide x 3/8" thick floating-type with single 3/8" thick diaphragms to prevent premature shaft breakage. The idler shafts are 2-7/16" in diameter. The conveyor headshaft and tailshaft is 2-15/16" in diameter AISI 4150 cold rolled steel. The headshaft sprocket is hardened to 450 Brinell.

### Includes

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.SP Walkway along both sides
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

### 3 NGW-300 300 Ton New Generation Storage Silo, 14' Diameter

The 14' diameter, 300 ton hot mix storage capacity is based on 120 pound/cubic foot material. The silo has a heated and insulated 66 degree cone with 27" diameter discharge opening, temperature controller with adjustable set points, temperature indicator, non-heated spool section, 8" R30 insulation at cone, 6" R23 insulation at side walls, 12" R46 top insulation, high and low level indicators in silo, single clam discharge gate with oil seal, and guardrails around the top of silo. The silo cone section is 3/8" A-36 steel plate, lower spool section is 3/8" A-36 plate, upper spool section is 1/4" A-36 plate. The cone insulation cover is 16 ga. painted steel and the side wall insulation cover is 20 ga. aluminum with baked-on enamel finish. The silo legs are 14'-6" long providing a vertical truck clearance of 13'-6" above a 1'-0" thick deck on an above ground scale. The lower one third of the cone and the discharge gate are electrically heated. The cone heat is provided by a 6-segment silicone blanket and the gates have blanket heat, 2300 watts total heat per gate. A 3 ton enclosed silo loading batcher mounts on top of the silo and has 3" R10 insulation and two (2) level indicators. The top gate with grease seal is mounted on top of the silo loading batcher.

#### Includes

- 3 SF.02 Electric blanket heat on cone
- 3 SF.03 Standard seismic design
- 3 SF.04 3 ton enclosed bin loading batcher
- 3 OF.02 Full 1/2" ceramic cone liners
- 3 OF.05 1/2" ceramic batcher liners
- 3 OF.10 Ceramic spool liners 8' above cone/spool transition
- 3 EO.04 PM electrical in silo power panel, cables
- 3 EO.10 Fireball strobelight for truck location



# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019

ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## 1 ITC-3614 36" Inclined Traverse Conveyor

A horizontal traverse conveyor 30" deep x 36" wide by 15'-0" long transfers hot mix from a drag conveyor or bucket elevator to the second silo. The traverse conveyor is equipped with 30 HP TEFC motor and shaft mounted reducer, 4" pitch heavy-duty double roller chain, 5" deep x 1/2" thick x 34" wide flights, Ni-Hard liners on the bottom and 8" high on sides, segmented head sprockets, heat on the bottom, 1" fiberglass insulation on bottom, and hinged 14 gauge steel plate covers. The idler rolls are 10-3/4" diameter x 1-7/8" wide x 3/8" thick floating-type with single 3/8" thick diaphragms to prevent premature shaft breakage. The idler shafts are 2-7/16" in diameter. The conveyor headshaft and tailshaft is 2-15/16" in diameter AISI 4150 cold rolled steel. The headshaft sprocket is hardened to 450 Brinell.

### Includes

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.02 To incline the traverse to feed another traverse
- 1 OF.03 Walkway along one side
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

## 1 TC-3614 36" Traverse Conveyor

A horizontal traverse conveyor 30" deep x 36" wide by 15'-0" long transfers hot mix from a drag conveyor or bucket elevator to the second silo. The traverse conveyor is equipped with 30 HP TEFC motor and shaft mounted reducer, 4" pitch heavy-duty double roller chain, 5" deep x 1/2" thick x 34" wide flights, Ni-Hard liners on the bottom and 8" high on sides, segmented head sprockets, heat on the bottom, 1" fiberglass insulation on bottom, and hinged 14 gauge steel plate covers. The idler rolls are 10-3/4" diameter x 1-7/8" wide x 3/8" thick floating-type with single 3/8" thick diaphragms to prevent premature shaft breakage. The idler shafts are 2-7/16" in diameter. The conveyor headshaft and tailshaft is 2-15/16" in diameter AISI 4150 cold rolled steel. The headshaft sprocket is hardened to 450 Brinell.

### Includes

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.03 Walkway along one side
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## 1 LPSII-10011 11' x 100' Low Profile Truck Scale

The fully electronic low profile 100' x 11' truck scale has a checkered floor and is shipped in 5 modules and includes twelve (12) load cells, (1) summing box, junction box, wiring in conduit, and quick connecting cables. Each module is supported by wide flange main and support beams to provide exceptional rigidity and minimal deflection. The large number of support members means less stress on the top plate and less chance of "dimpling" with repetitive loading. Accuracy meets The Bureau of Standards Handbook 44 criteria. All models are NTEP Certified Legal-for-Trade.

### Includes

- 1 SF.01 Single Pipe Rails Schedule 40 Pipe, 1/2" Support Brackets

## 1 BSP-MISC Miscellaneous Blue Smoke Equipment to Complete System on WO# 97-254

### Includes

- 1 OF.01 Blue Smoke Ductwork along Drag Conveyor
- 1 OF.02 Blue Smoke Ductwork from Crossover Traverse to Drag Conveyor Blue Smoke Duct
- 1 OF.03 (2) Automatic Damper
- 1 OF.04 Cover Gaskets for (4) Traverse Conveyors
- 1 EO.SP 20HP Motor for Customer's Existing Scavenger Fan w/ Switchgear

*Note: Customer to supply a Burner Diffusion Ring.*

## 1 WM-2000 Additional Scale Input

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## 1 SCIII Silo Control System (stand-alone)

The state-of-the-art SCIII Silo Control System is intended to replace the former silo relay console. It allows for operation, configuration, and set-up of storage silos and their associated components all from one easy-to-navigate operations screen. This system utilizes a hard PLC, which enables it to function as a stand-alone system.

Note: Base price does not include current monitoring.

### Includes

- 1 SF.01 Graphical display of interlocks
- 1 SF.02 On-screen diagnostics
- 1 SF.03 Supports self-erecting bin (SEB)
- 1 SF.04 Supports weigh batchers
- 1 SF.05 Up to five (5) silos per scale
- 1 SF.06 Up to eight (8) scales per system
- 1 SF.07 Up to eight (8) weigh batchers per system
- 1 SF.08 Third party software for interface
- 3 OF.02 Each additional silo
- 1 OF.05 Silo selected for loadout & silo low level indication

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## 1 BCIII Burner Control System (standalone)

The BCIII is on the cutting edge of energy efficiency and operational ease. The system utilizes Fireye Flame Safeguard technology and Nexus Parallel Positioning System allowing fuel and air rationing capabilities to minimize emissions and fuel consumption. The BCIII also features a comprehensive, easy to read graphic display of all limits associated with the system. This system utilizes a hard PLC, which enables it to function as a stand-alone system, and has the capacity for remote location diagnostics.

Note: Existing burner actuators must be changed over to servo motors.

### Includes

- 1 SF.01 Automatic control of single or dual Air/Fuel servo motors
- 1 SF.02 Automatic control of combustion air VFD
- 1 SF.03 Automatic damper control or control of VFD drive on exhaust fan
- 1 SF.04 Flame safeguard system
- 1 SF.05 Graphic display of interlock circuits
- 1 SF.06 Graphic trending of temperatures
- 1 SF.07 On-screen diagnostics
- 1 SF.09 Stack limit control
- 1 SF.10 Controls single fuel or multi-fuel burners
- 1 SF.11 Full burner profile - multiple fuels
- 1 SF.12 Text and audible burner denunciator
- 1 SF.13 Burner stop factors to help troubleshoot
- 1 SF.14 Improved diagnostics to pin-point problems
- 1 SF.15 Remote log-in available
- 1 OF.01 BCIII as add-on (w/o PC & Software) (deduct)

## 2 FLMSCNR Fireye Flame Scanner

# CCD EXHIBIT A - PO-00064047 - Continued

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## 1 SERVTEC-20 Service Tech to Install Controls and Train Operator

ASTEC will provide a service technician to supervise and assist installation, start up the system, and train the operator. The Customer is responsible for contacting the service department directly to schedule a service tech for install.

The Customer will provide both mechanics and electricians to assist the ASTEC service technician during the installation process. The customer is also responsible for any components or devices, external to the before mentioned system, that are found to require replacement or repair during the installation.

\*\*\*\*SCIII, BCIII CONTROLS CONSOLE AND STACK TEMPERATURE CONTROL SYSTEM  
INSTALL AND TRAINING ONLY\*\*\*\*

-Equipment erection not included.

**One set of engineered foundation drawings**

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**Net Price, FCA Astec, Inc. Factory: \$1,648,170.00**

### **GENERAL NOTES:**

- 1.) *Customer is responsible for any modifications to existing equipment.*
- 2.) *Upon further Engineering review, revisions to the quoted equipment may be necessary and our prices will be adjusted accordingly.*
- 3.) *Dependant on facility location and soil bearing review, special seismic designs may be necessary for the equipment and our price will be adjusted accordingly.*
- 4.) *This order is currently for ENGINEERING ONLY until customer releases Astec for fabrication.*
- 5.) *If Astec is not released for fabrication by 5/31/19, proposal will be reevaluated and prices will be subject to change.*

**CCD EXHIBIT A - PO-00064047 - Continued  
(Itemized Pricing from above SOW)**

**ASTEC®**

**THE WORLD LEADER IN ASPHALT PRODUCTION EQUIPMENT**

**SUPPORT • TECHNOLOGY • TRAINING**

**SALES PROPOSAL  
PREPARED EXCLUSIVELY FOR**

**City and County of Denver  
1390 Decatur Street  
Denver, CO 80204**

**PROPOSAL NUMBER: 18CK0878.2 for  
(3) ADDITIONAL 300 TON SILOS & RETROFIT EQUIPMENT  
FOR FACILITY SOLD ON WO# 97-254**

**Presented By:**

**Kent Hood / Justin Vermeer  
Regional Sales Manager**

**October 19, 2018**



**4101 Jerome Avenue Chattanooga, TN. 37407 | [www.astecinc.com](http://www.astecinc.com) | 423.867.4210**

# CCD EXHIBIT A - PO-00064047 - Continued (Itemized Pricing from above SOW)

October 19, 2018  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## (3) ADDITIONAL 300 TON SILOS & RETROFIT EQUIPMENT FOR FACILITY SOLD ON WO# 97-254 as per the following specifications:

### 1 RDM-VPAC-50-7 Stack Temperature Control System for 7' Double Barrel®

- 1 SF.01 One (1) Set V-Flights
- 1 SF.02 VFD Drive for Drum in Stand Alone Panel (150 HP)
- 1 SF.03 Baghouse Stack Temp Drum Speed Controller

**Net Price: \$86,540.00**

*Note: For use with Double Barrel Sold on WO# 97-254*

### 1 ITC-3612 36" Inclined Traverse Conveyor (EXISTING SILO #2 to #3)

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.02 To incline the traverse to feed another traverse
- 1 OF.03 Walkway along one side
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

**Net Price: \$88,620.00**

### 1 TC-3623-IC Inclined 36" x 23' Crossover Traverse Conveyor (SILO ROW #1 to ROW #2)

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.SP Walkway along both sides
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

**Net Price: \$150,170.00**

Accepted By: \_\_\_\_\_

# CCD EXHIBIT A - PO-00064047 - Continued

## (Itemized Pricing from above SOW)

October 19, 2018  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

### 3 NGW-300 300 Ton New Generation Storage Silo, 14' Diameter

- 3 SF.02 Electric blanket heat on cone
- 3 SF.03 Standard seismic design
- 3 SF.04 3 ton enclosed bin loading batcher
- 3 OF.02 Full 1/2" ceramic cone liners
- 3 OF.05 1/2" ceramic batcher liners
- 3 OF.10 Ceramic spool liners 8' above cone/spool transition
- 3 EO.04 PM electrical in silo power panel, cables
- 3 EO.10 Fireball strobelight for truck location

**Net Price: \$830,740.00**

### 1 ITC-3614 36" Inclined Traverse Conveyor

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.02 To incline the traverse to feed another traverse
- 1 OF.03 Walkway along one side
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

**Net Price: \$94,810.00**

### 1 TC-3614 36" Traverse Conveyor

- 1 SF.01 Hot oil heat on traverse conveyor
- 1 OF.03 Walkway along one side
- 1 EO.04 PM electrical mounted in silo power panel, cables
- 1 EO.05 Cable tray
- 1 EO.07 30 HP drive in lieu of 25 HP

**Net Price: \$89,060.00**

### 1 LPSII-10011 11' x 100' Low Profile Truck Scale

- 1 SF.01 Single Pipe Rails Schedule 40 Pipe, 1/2" Support Brackets

**Net Price: \$84,110.00**

Accepted By: \_\_\_\_\_



# CCD EXHIBIT A - PO-00064047 - Continued

## (Itemized Pricing from above SOW)

October 19, 2018  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

### 1 BSP-MISC Miscellaneous Blue Smoke Equipment to Complete System on WO# 97-254

- 1 OF.01 Blue Smoke Ductwork along Drag Conveyor
- 1 OF.02 Blue Smoke Ductwork from Crossover Traverse to Drag Conveyor Blue Smoke Duct
- 1 OF.03 (2) Automatic Damper
- 1 OF.04 Cover Gaskets for (4) Traverse Conveyors
- 1 EO.SP 20HP Motor for Customer's Existing Scavenger Fan w/ Switchgear

**Net Price: \$44,410.00**

*Note: Customer to supply a Burner Diffusion Ring.*

### 1 WM-2000 Additional scale input

**Net Price: \$7,990.00**

### 1 SCIII Silo Control System (stand-alone)

- 1 SF.01 Graphical display of interlocks
- 1 SF.02 On-screen diagnostics
- 1 SF.03 Supports self-erecting bin (SEB)
- 1 SF.04 Supports weigh batchers
- 1 SF.05 Up to five (5) silos per scale
- 1 SF.06 Up to eight (8) scales per system
- 1 SF.07 Up to eight (8) weigh batchers per system
- 1 SF.08 Third party software for interface
- 3 OF.02 Each additional silo
- 1 OF.05 Silo selected for loadout & silo low level indication

**Net Price: \$71,330.00**

Accepted By: \_\_\_\_\_

# CCD EXHIBIT A - PO-00064047 - Continued

## (Itemized Pricing from above SOW)

October 19, 2018  
 ASTEC Proposal Number: 18CK0878.2  
 City and County of Denver, Denver, CO

### 1 BCIII Burner Control System (standalone) (Nexus for Canada)

- 1 SF.01 Automatic control of single or dual Air/Fuel servo motors
- 1 SF.02 Automatic control of combustion air VFD
- 1 SF.03 Automatic damper control or control of VFD drive on exhaust fan
- 1 SF.04 Flame safeguard system
- 1 SF.05 Graphic display of interlock circuits
- 1 SF.06 Graphic trending of temperatures
- 1 SF.07 On-screen diagnostics
- 1 SF.09 Stack limit control
- 1 SF.10 Controls single fuel or multi-fuel burners
- 1 SF.11 Full burner profile - multiple fuels
- 1 SF.12 Text and audible burner denunciator
- 1 SF.13 Burner stop factors to help troubleshoot
- 1 SF.14 Improved diagnostics to pin-point problems
- 1 SF.15 Remote log-in available
- 1 OF.01 BCIII as add-on (w/o PC & Software) (deduct)

**Net Price: \$28,580.00**

### 2 FLMSCNR Fireeye Flame Scanner

**Net Price: \$1,200.00**

### 1 SERVTEC-20 Service tech to install Controls and Train Operator

**Net Price: \$30,610.00**

*Note: \*\*\*\*\*SCIII AND BCIII CONTROLS CONSOLE INSTALL AND TRAINING ONLY\*\*\*  
 -Equipment erection not included*

### 1 Set of engineered foundation drawings

**Net Price: \$40,000.00**

**Net Price, FCA Astec, Inc. Factory: \$1,648,170.00**

#### NOTES:

- Customer is responsible for any modifications to existing equipment.
- Upon further Engineering review, revisions to the quoted equipment may be necessary and prices will be adjusted accordingly.

Accepted By: \_\_\_\_\_

# CCD EXHIBIT A - PO-00064047 - Continued (Additional Items)

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## SALES PROPOSAL SPECIFIC TERMS AND CONDITIONS

**PRICING:** -Above price is valid for 15 days after date of this Sales Proposal.  
-Above prices do not include any state or other taxes that may be applicable, which shall be the responsibility of the Purchaser.

**TERMS:** - 20% due when customer releases Astec for fabrication of equipment. (Pending permits from state of Colorado)  
- Astec will provide a letter of credit for the benefit of Purchaser in the amount of the 20% down payment.  
- Balance due on the earlier of thirty (30) days after Astec is ready to ship or upon delivery of the equipment to the carrier.

***ASTEC DOES NOT ACCEPT CREDIT CARDS AS FORM  
OF PAYMENT ON MAJOR EQUIPMENT SALES***

***Please FedEx amount due and signed contract to:***

**ASTEC, INC.  
ATTN: LISA ARMSTRONG, SALES  
4101 JEROME AVENUE  
CHATTANOOGA, TN 37407**

**SHIPPING:** -Transportation charges from point of shipment to point of destination shall be paid by the Purchaser.  
-Purchaser shall control the type of transportation and routing.

**DELIVERY:** -A firm date shall be established upon Astec's receipt of signed contract and down payment.  
-Delivery is subject to prior sales commitments.

**SERVICE:** -See **SERVICE** page in this Sales Proposal.

**DELAY:** -If Astec is not released by the Purchaser to order materials for fabrication within 60 days after the signing of this Agreement and at subsequent 60 day intervals, Astec reserves the right to review and adjust the contract price.  
-In addition, delays in fabrication due to delays in Purchaser release will require an adjustment in the delivery date.

# CCD EXHIBIT A - PO-00064047 - Continued (Additional Items)

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## SALES PROPOSAL INFORMATION FROM CUSTOMER

ASTEC needs the following information before the foundation design process can begin:

A. Purchaser Approved Plant Layout

AND

B. One of the following items:

1. Geotechnical report stating the allowable soil bearing pressure and frost depth values if shallow or mat foundations are acceptable for the proposed site. This report should include any site preparations required by the Purchaser to ensure the bearing pressure is achieved. This report should include all seismic design criteria including the soil site class. The settlement tolerances for Astec's equipment are 3/4" immediate and 1-1/4" total settlement. These settlement criteria should be considered when developing the site recommendations. Furthermore, allowable passive pressure and friction resistance around the foundation should be included for lateral load resistance.
2. Geotechnical report stating the recommended friction or bearing capacity per pile if deep foundations are required at the proposed site. This report should also include all seismic design criteria including the soil site class. Pile length, minimum center-to-center distance, allowable skin friction and end bearing capacity, and applicable corrosion resistant measures should be included in the report. The pile size should be designated; for steel piles, designate the HP section, and for concrete or timber piles, designate the diameter and other pertinent dimensions. The allowable passive pressure and friction resistance around the foundation should be included for lateral load resistance. Site preparations required by the customer to ensure the pile capacity is attained should be clearly specified. The feasibility of using a low soil bearing pressure under shallow foundations for light equipment should be addressed. The settlement tolerances for Astec's equipment are 3/4" immediate and 1-1/4" total settlement.
3. Written statement of an allowable soil bearing pressure on customer letterhead. The customer is responsible for ensuring the bearing pressure at the site meets or exceeds this stated value, and for ensuring lateral loads can be resisted through passive pressure and friction resistance around the foundation. However, it is preferable to attain site recommendations from a qualified geotechnical engineer. Astec will not be able to place an engineer seal (in states where Astec engineers are licensed) on foundation drawings unless a geotechnical report is received.

Astec will provide size and weight information upon request to assist in developing the subsurface recommendations. Contact Astec Engineering Dept. at (423)867-4210 or the your Project Manager for more information.

# CCD EXHIBIT A - PO-00064047 - Continued

## (Additional Items)

March 11, 2019  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

### SALES PROPOSAL PURCHASER RESPONSIBILITIES

The following additional items will be required for placing the equipment into operation. These items are the responsibility of Purchaser.

Air Compressor

Air Line Piping

All incoming power and cables to Astec's main power panel, including site main disconnect and electrical metering system

All incoming power and cables to Purchaser's transformer and transformer to Astec's main power panel

All underground PVC and cable to power panel

All underground PVC for power and control wiring

Additional Purchaser Specific and/or Local Code Guarding

Any electrical equipment required by local codes (other than NEC)

Any fees associated with U.L. approval and/or inspection

Any modifications to existing equipment

Any other equipment, services, controls, materials, permits, certifications, or other items not specifically identified in this contract including but not limited to Structural Observation, Structural Inspection, Electrical Observation and Electrical Inspection.

Arc Flash Hazard Analysis

Cable tray covers, if required

Clean up of site after erection

Compliance of equipment as installed with all applicable federal, state and local laws and regulations including those imposing environmental, workplace safety, land use and other restrictions and requirements.

Concrete/Asphalt for Foundations

Erection and/or installation

Field marking of available fault current (NEC Article 110.24)

Foundation, grout, anchor bolts, weld plates, all foundation-related materials

Freight

Furnishing and installation of flexible or hard piped suction line between AC delivery truck and AC unloading pump(s).

Gas regulator on incoming line for oil heater

Grounding System for all equipment

# CCD EXHIBIT A - PO-00064047 - Continued

## (Additional Items)

March 11, 2019  
ASTEC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

### **PURCHASER RESPONSIBILITIES, cont'd....**

Heat Transfer Oil  
Hot Oil Heater  
Hot Oil Piping  
Insulation (materials and labor) of AC and hot oil lines  
Lightning protection system (including wire and ground rods)  
Lubricants for Reducers  
Motor disconnects, if required  
PE review/stamping of drawings unless otherwise provided in this proposal  
PE stamp on electrical drawings unless otherwise provided in this proposal  
Permits  
Sales Tax  
Scale Certification  
Site Preparation  
Ticket Transfer Service  
Touch up painting unless equipment installed by Astec  
Transformers  
Upgrade main breaker/transformer, if required

### **CUSTOMER PLANT SETUP RESPONSIBILITIES**

**(TASK TO BE COMPLETED PRIOR TO ASTEC'S SERVICE TECH'S ARRIVAL AT PLANT)**

1. All equipment set, bolted and completely sealed up.
2. All A/C & Hot Oil Lines put together and tested.
3. Fuel lines/Gas lines including all lines for the pilots hooked up and run.
4. All air lines run and hooked up from air compressor to all locations on the plant.
5. All electrical cables pulled and hooked up.
6. Main power run and hooked up to main in MCC cabinet.
7. Cold feed ramps completed on virgin and recycle.
8. Aggregate on site.
9. Hot oil on site.

# CCD EXHIBIT A - PO-00064047 - Continued

## (Additional Items)

March 11, 2019  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

### SALES PROPOSAL SERVICE

Astec will furnish a Service Technician to provide technical assistance in the erection and/or setting of the equipment furnished by Astec and to assist and instruct the employees of Purchaser in the starting up thereof, for period not to exceed 10 working day(s).

If the time required by the Service Technician exceeds 10 working day(s), and the delays are not caused by Astec, these services will then be charged to the Purchaser at the rate of \$1,200.00 per day plus all traveling expenses enroute to and from the site of erection and/or setting.

The Service Technician shall report for duty on five (5) days' notice to Astec, and if through the fault of Purchaser he is delayed in beginning or prosecuting his work, Purchaser shall pay Astec, in addition to any other payments due hereunder, the amount of \$1,200.00 for each day of time so lost, plus expenses.

**MOVING THE EQUIPMENT:** Purchaser shall furnish the necessary facilities, labor and materials for conveying the equipment from the point of delivery to the site of installation, and placing same on point of erection and/or setting. The Equipment shall be set and leveled by Purchaser.

**START UP:** Purchaser shall furnish at the site of erection and/or setting the following: All labor, Equipment, fuel, water, and electricity as required for starting up the Equipment.

**CCD EXHIBIT A - PO-00064047 - Continued**

# **ASTE<sup>C</sup>**

**THE WORLD LEADER IN ASPHALT PRODUCTION EQUIPMENT**

**SUPPORT • TECHNOLOGY • TRAINING**

**FREIGHT CONTRACT  
PREPARED EXCLUSIVELY FOR**

**Mr. Dean Rzeszut  
City and County of Denver  
5440 Roslyn Street  
Building " G"  
Denver, CO 80216**

**PROPOSAL NUMBER: 18KR0557F for  
900 TON ASTEC LONG TERM STORAGE SYSTEM FOR 97-254**

**Presented By:**

**Joe Soelberg  
Regional Sales Manager**

**April 17, 2019**



4101 Jerome Avenue Chattanooga, TN. 37407 | [www.asticinc.com](http://www.asticinc.com) | 423.867.4210



## FREIGHT CONTRACT

This Freight Contract (the "Contract") is made and entered into as of April 17, 2019 between Astec, Inc. ("Astec") and City and County of Denver ("Purchaser") for delivery of the equipment described in Exhibit A (attached) hereto (the "Equipment").

### **A. ARRANGEMENT FOR EQUIPMENT**

As an accommodation to Purchaser, Astec agrees to contract with a third-party carrier (the "Carrier") to arrange for transportation of the Equipment. Astec's responsibility under this Contract is limited to arranging with the Carrier for the transportation of the Equipment. Astec shall not be responsible or liable for the actual transportation of the Equipment and will not be deemed a carrier of the Equipment. Astec shall have no liability for the acts or omissions of the Carrier in connection with the transportation of the Equipment. In consideration of Astec's arrangement of the transportation of the Equipment, Purchaser shall pay Astec the Contract Price set forth below. The Contract Price shall be due and payable immediately upon receipt of invoice.

### **B. PERMITS**

The Carrier will be responsible for obtaining load permits and for compliance with all local, state and federal highway regulations applicable to the transportation of the Equipment, including without limitation, weight, length, and height restrictions.

### **C. OFF-LOADING AT PLANT SITE**

Purchaser is responsible for all cranes and other lift equipment, as well as all personnel, necessary to safely and efficiently unload the Equipment from the trailers upon arrival at the point of delivery. Failure to unload the Equipment within a reasonable amount of time following arrival may result in additional charges for demurrage for which Purchaser is responsible.

### **D. INSPECTION AGAINST SHIPPING DOCUMENTS**

A detailed shipping list will accompany the bill of lading and Purchaser agrees to check the Equipment as it is unloaded and make any claim for any shortage in writing within 24 hours of the time of unloading, such claim to be accompanied by an affidavit from the person in charge of the unloading confirming such shortage.

### **E. INSURANCE**

The Carrier shall provide and maintain (a) property insurance coverage and (b) liability insurance coverage for personal injury and property damage to third parties, in amounts that are customary for the industry, which coverages shall remain in effect until the Equipment is delivered to Purchaser. Astec shall provide Purchaser with evidence of such coverages upon request, but is not responsible for causing the Carrier to procure and maintain insurance. Purchaser is responsible for insuring the Equipment during unloading and after delivery.

## F. POSTPONED DELIVERY

If, through no fault of Astec, delivery is delayed or postponed, Purchaser shall pay to Astec any additional cost incurred by Astec arising from such delay or postponement. If the Equipment must be repainted as a result of the delay, all cost associated with repainting shall be paid by Purchaser. If the agreed ship date is delayed or postponed past the Carrier's valid price expiration date through no fault of Astec, Purchaser shall pay to Astec any additional charges imposed by the Carrier as the result of such delay or postponement. If the original or revised ship date conflicts with any state's "Frost Laws", requiring rerouting or delays of the Equipment, the Purchaser shall pay any additional freight related cost incurred by Astec.

## G. LIMITATION OF DAMAGES

EXCEPT AS SPECIFICALLY SET FORTH HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS CONTRACT FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATING TO THIS CONTRACT RESULTING FROM ANY CAUSE WHATSOEVER. In addition, Astec's maximum liability hereunder shall not exceed the Contract Price.

## H. GOVERNING LAW; DISPUTES

This Contract shall be governed by and interpreted under the laws of the State of Colorado. Any disputes hereunder shall be resolved pursuant to the provisions of the Sales Proposal to which this Contract relates.

## I. NON-ASSIGNABILITY – COMPLETE UNDERSTANDING

The rights and liabilities of the parties hereunder are non-assignable. The complete understanding is herein stated.

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**PRICE. shall be: FCA Astec, Inc. Factory \$124,720.00 (One Hundred Twenty Four Thousand Seven Hundred Twenty Dollars and 00/100 cents).**

*The above-quoted price is subject to change prior to final acceptance of this proposal by the Company.*

### DESTINATION:

**Mr. Dean Rzeszut  
City and County of Denver  
5440 Roslyn Street  
Building " G"  
Denver, CO 80216**

**TERMS: 100% due upon receipt of invoice.**

***Any and all taxes levied as a result of this transaction are the responsibility of purchaser.***

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# CCD EXHIBIT A - PO-00064047 - Continued

April 17, 2019  
ASTECC Proposal Number: 18KR0557F  
City and County of Denver, Denver, CO

This contract is made in Chattanooga, Tennessee.

## RESPECTFULLY SUBMITTED

ASTECC, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Joe Soelberg  
Title: Regional Sales Manager

## ORDER BY PURCHASER

The foregoing proposal is hereby offered  
as an order by Purchaser.

Date: 4-29-19

By: *[Signature]*

Name: Lance Jay  
City and County of Denver

Title: Chief Procurement Officer

## ACCEPTANCE OF ORDER BY COMPANY

The foregoing order is hereby accepted at Chattanooga,  
Tennessee, as of the date of acceptance.

ASTECC, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Thomas A. Baugh  
Title: Vice President - North American Sales

**EXHIBIT "A"**

- 1 RDM-VPAC-50-7 Stack Temperature Control System for 7' Double Barrel®**
- 1 ITC-3612 36" Inclined Traverse Conveyor (Replaces Existing)**
- 1 TC-3620-IC Inclined 36" x 20' Crossover Traverse Conveyor**
- 3 NGW-300 300 Ton New Generation Storage Silo, 14' Diameter**
- 1 ITC-3614 36" Inclined Traverse Conveyor**
- 1 TC-3614 36" Traverse Conveyor**
- 1 LPSII-10011 11' x 100' Low Profile Truck Scale**
- 1 WM-2000 Additional scale input**
- 1 SCIII Silo Control System (stand-alone)**
- 1 BCIII Burner Control System (standalone) (Nexus for Canada)**
- 2 FLMSCNR Fireeye flame scanner**
- 1 SERVTEC-20 Service tech to install Controls and Train Operator**

# **ASTE<sup>C</sup>**

**THE WORLD LEADER IN ASPHALT PRODUCTION EQUIPMENT**

**SUPPORT • TECHNOLOGY • TRAINING**

**INSTALLATION CONTRACT  
PREPARED EXCLUSIVELY FOR**

**Mr. Dean Rzeszut  
City and County of Denver  
5440 Roslyn Street  
Building " G"  
Denver, CO 80216**

**PROPOSAL NUMBER: 18KR0557C for  
900 TON ASTEC LONG TERM STORAGE SYSTEM FOR 97-254**

**Presented By:**

**Kent Hood  
Regional Sales Manager**

**July 13, 2018**



## EQUIPMENT INSTALLATION CONTRACT

This Equipment Installation Contract (this "**Contract**"), dated as of the date set forth on **Schedule A** (the "**Effective Date**"), is by and between ASTEC, INC., a Tennessee corporation ("**ASTEC**") and the customer identified on **Schedule A** ("**Customer**"). **Schedule A** is attached to this Contract and incorporated into this Contract.

WHEREAS, Customer desires to retain ASTEC to provide certain services (the "**Services**") relating to the installation of equipment purchased by Customer from ASTEC (the "**Equipment**"), and ASTEC is willing to perform such Services under the terms and conditions set forth in this Contract;  
NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ASTEC and Customer agree as follows:

### **A. Services Generally**

ASTEC shall provide to Customer the Services identified in this Contract as "**ASTEC Responsibility**" under the terms and conditions set forth in this Contract. ASTEC's performance of the Services is subject to Customer's performance of the obligations identified in this Contract as "**Customer Responsibility**," including without limitation obtaining or providing necessary approvals, information, licenses, and instructions on a timely basis. ASTEC has no responsibility or liability for delays caused by Customer's failure to perform the obligations identified in this Contract as "**Customer Responsibility**."

The relationship of the parties is that of independent contractors. Nothing contained in this Contract shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. The method and manner for performance of the Services by ASTEC shall be under its own control. The parties acknowledge that ASTEC is not performing the Services as a general contractor.

### **B. Permits – Customer Responsibility**

Customer is responsible for obtaining all permits required for construction and erection of the Equipment, which permits are to be secured and in place prior to delivery of the Equipment. Customer is liable for any costs incurred by ASTEC due to lost time and downtime caused by delays in obtaining the permits. In the event ASTEC is required to provide assistance in connection with obtaining any permit, all costs incurred by ASTEC shall be reimbursed by Customer.

### **C. Site Preparation – Customer Responsibility**

Site preparations include the dismantling and removal of any existing equipment and any other obstacles, leveling of the site, preparing the base for setting Equipment to ASTEC recommendations and removing and disposing of any hazardous or contaminated materials. All conduits, ticket delivery piping, utilities, water, sewer, telephone, primary power, and gas main (if required) will be installed by Customer or others, and should be installed prior to foundation installation. Site preparations are required to meet the specifications as outlined in the OSHA Standards manual 29 CFR Part 1926. ASTEC will not begin erection if the site is not 100% complete.

Customer shall ensure that the following is provided and maintained:

1. Adequate access roads into and through the site for the safe delivery and movement of derricks, cranes, trucks, other necessary equipment, and the material to be erected and means and methods for pedestrian and vehicular control. **Exception: this requirement does not apply to roads outside of the construction site.** (1926.752(c)(1) OSHA Standards 29 CFR Part 1926)
2. A firm, properly graded, drained area, readily accessible to the work with adequate space for the safe storage of materials and the safe operation of the erector equipment. (1926.752(c)(2) OSHA Standards 29 CFR Part 1926)

## D. Foundations - Customer Responsibility

Customer shall be responsible for obtaining all soil tests for foundation design and installation of foundations. Customer shall also be responsible for the supply and installation of all foundation related materials including, but not limited to, concrete, anchor bolts, weld plates, and grout. Customer shall be responsible for meeting the requirements of OSHA Standards 29 CFR 1926 concerning the installation of foundations, as set forth below.

1926.752(b) OSHA Standards 29 CFR Part 1926

### Commencement of Steel Erection

A steel erection contractor shall not erect steel unless it has received written notification that the concrete in the footings, piers, and walls or the mortar in the masonry piers and walls has attained, on the basis of an appropriate ASTM standard test method of field-cured samples, either 75% of the intended minimum compressive design strength or sufficient strength to support the loads imposed during steel erection.

Customer shall be responsible for any ramps leading to and from the Truck Scale.

*Note: The Customer Responsibilities described in Sections B thru D must be complete and in place prior to the performance of any Services by ASTEC.*

## E. Structural Erection

### 1. Labor – ASTEC Responsibility

ASTECC will provide supervision and labor to erect all new Equipment described in proposal 18KR0557 on **Schedule A** (collectively, the "**Equipment Contract**"). Unless specifically set forth on **Schedule A**, ASTEC personnel will erect, modify, move, or involve themselves only with the Equipment described in the Equipment Contract.

If, in carrying out their duties under this Contract, ASTEC personnel become delayed, restrained, interfered with, or prevented from working or carrying out their duties for whatever reason, including objections from Customer's employees or local unions, ASTEC personnel will be relieved of their duties and will then function in an advisory capacity only. ASTEC will determine what deductions/additions if any, will be allowed from the installation charges to offset the costs of additional personnel or equipment required by Customer as a result of such interference and limitations beyond the control of ASTEC personnel.

## 2. Cranes and Material Handling Equipment – Customer Responsibility

CUSTOMER SHALL BE RESPONSIBLE FOR CRANES. CUSTOMER MUST SUPPLY THE APPROPRIATE CRANES TO ERECT EQUIPMENT IN A SAFE AND TIMELY MANNER. IN THE EVENT THAT, IN THE JUDGEMENT OF THE ASTEC SUPERVISOR ON SITE, THE APPROPRIATE CRANES ARE NOT SUPPLIED, ASTEC RESERVES THE RIGHT TO SUPPLY THE NECESSARY EQUIPMENT TO COMPLETE THE JOB AT THE SOLE EXPENSE OF CUSTOMER.

## 3. Equipment Positioning and Securing – ASTEC Responsibility

After Equipment is lifted and placed into position, ASTEC will be responsible for attachment (where necessary) of Equipment to the base plates using either the weld down or bolt down method.

### F. Electrical Installation

#### 1. Electrical Conduit and Ticket Delivery Systems – Customer Responsibility

Customer shall be responsible for the supply, excavation, installation, and covering of all underground conduit and ticket delivery systems.

#### 2. Incoming Main Power Supply – Customer Responsibility

Customer shall be responsible for supplying transformer, installation, permits, inspections and connection of incoming power to the main power disconnect located in the ASTEC supplied main power panel.

#### 3. Interconnection of Power and Control Cables – ASTEC Responsibility

ASTECC will pull and terminate all interconnecting rubber or cable tray rated power and control cables from the Equipment supplied in the Equipment Contract. In the event that rubber cables or cable tray rated cables do not meet local electrical codes and wiring in conduit is required, Customer shall be responsible for all additional, resulting costs.

#### 4. \*\*\*Controls Installation Not Covered Under This Contract\*\*\*

### G. Plumbing

#### 1. Compressed Air – ASTEC Responsibility

ASTECC will install all air supply (Rubber Hose) between components described in the Equipment Contract. *Any additional air supply, which is not for the operation of the Equipment described in the Equipment Contract or specifically identified in the Equipment Contract is the responsibility of Customer.*



## 2. Hot Oil Equipment – ASTEC Responsibility

ASTECC will install and connect all hot oil piping and hot oil jumpers necessary to supply hot oil to the heated components furnished in the Equipment Contract.

### INSULATION NOTE

*Insulation of hot oil and asphalt piping is not included in this Contract. If insulation of piping is required, contact ASTEC for additional pricing. ASTEC policy regarding piping insulation requests is to hire a local outside contractor to provide the insulation materials and labor.*

## 3. Hot Oil Supply – Customer Responsibility

All heat transfer oil is to be supplied and installed by Customer. The hot oil system is to be filled and checked by Customer prior to plant start-up. *Any spills related to filling of the hot oil system and not the result of work performed by ASTEC personnel will be the responsibility of Customer.*

## 4. Asphalt Piping

*Note: Any asphalt cement spills not the result of work performed by ASTEC personnel will be the responsibility of the Customer.*

## 5. Burner Fuel Piping – ASTEC Responsibility / Customer Responsibility

**When set up for operation on oil:** ASTEC will connect all fuel lines from the fuel tank to the burner when a new tank has been purchased. If Customer prefers using an existing fuel tank, Customer shall be responsible for piping from tank to manifold of burner.

**When set up for natural gas:** Customer is responsible for the gas regulator(s), Pilot Lines and piping from Customers "valved" stub up to the gas manifold on all burners.

## H. Check-out and Start Up – ASTEC Responsibility

Following the completion of the installation, an ASTEC service technician will check out the Equipment and provide start-up services and training in the operation of the Equipment. **It is Customer's responsibility to provide a properly skilled operator and crew to maintain the Equipment once it is ready for calibration.** The ASTEC Service Technician will perform the following duties with the assistance of other personnel where noted:

1. Check all wiring connections and control wiring functions. **To be assisted by third-party construction personnel.**
2. Check all safeties and interlocks. **To be assisted by third-party construction personnel.**
3. Check all motor rotations. **To be assisted by third-party construction personnel.**
4. Check all lubricant and transfer oil levels. **To be assisted by Customer personnel.**

5. Review and supervise calibration of all necessary plant components. **To be assisted by Customer personnel.**
6. Review and supervise daily start-up, normal operating procedures, and daily shutdown and cleanup procedures. **To be assisted by Customer personnel.**
7. Review recommended maintenance procedures with operator and Customer personnel.
8. Meet with Customer's personnel involved in the daily operation of the Equipment to review and explain recommended safety procedures.

## I. Insurance

ASTECC shall maintain insurance coverage as described in the Customer's General Conditions of Purchase attached hereto.

## J. Price and Expenses

In consideration of the provision of the Services by ASTECC under this Contract, Customer shall pay the price set out on **Schedule A** (the "**Price**"). The Price is subject to adjustment prior to final acceptance of this Contract by ASTECC and as provided herein. Unless otherwise agreed by the parties, twenty percent (20%) of the Price shall be payable upon the execution of this Contract, with the balance due upon completion of the installation of the Equipment and turning of motors. In addition to its obligation to pay the Price, Customer shall reimburse ASTECC for all additional costs and expenses incurred in accordance with the performance of the Services, within thirty (30) days of receipt by the Customer of any invoice from ASTECC accompanied by receipts and reasonable supporting documentation. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charged of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer under this Contract.

## K. Limited Warranty and Limitation of Liability

ASTECC warrants that all Services performed by it will be performed in a good and workmanlike manner in accordance with the terms and subject to the conditions set forth in this Contract. This warranty will be in effect for a period of ninety (90) days from the completion of the applicable Services (the "**Warranty Period**"). If during the Warranty Period, ASTECC receives written notice from Customer of non-conforming Services, ASTECC will, as Customer's sole and exclusive remedy and ASTECC's entire liability for any breach of the foregoing warranty, at its sole option and expense, promptly re-perform any Services that fail to meet this limited warranty.

THE FOREGOING WARRANTY IS THE EXCLUSIVE WARRANTY PROVIDED BY ASTEC AND IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OF PARTICULAR PURPOSE AND ANY IMPLIED WARRANTY FROM COURSE OF DEALING OR USAGE OF TRADE, EACH OF WHICH IS EXPRESSLY DISCLAIMED.

UNDER NO CIRCUMSTANCES SHALL ASTEC BE LIABLE OR RESPONSIBLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR OTHER DAMAGES, EXPENSES, LOSSES OR DELAYS HOWSOEVER CAUSED, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, PERSONAL INJURY, DEATH AND PROPERTY DAMAGE, WHETHER BASED ON THEORIES OF NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, MISREPRESENTATION, STRICT LIABILITY OR ANY OTHER LEGAL THEORY. ASTEC SHALL NOT BE SUBJECT TO ANY LIABILITY FOR ANY LOSSES, EXPENSES OR DAMAGES ARISING FROM ANY NEGLIGENCE BY IT OR ANY OF ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN CONNECTION WITH THE PROVISION OF SERVICES.

#### **L. Other Terms**

This Contract incorporates the confidentiality, termination, force majeure and assignment provisions set forth in the Customer's General Conditions of Purchase and ASTEC's Sales Proposal, each of which are attached hereto.

#### **M. Governing Law**

This Contract is governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Colorado.

#### **N. Miscellaneous**

This Contract, including and together with any related exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. Customer agrees that additional or different terms on Customer's purchase order shall not apply. Any waiver, modification or amendment of this Contract will be effective only if in writing and signed by an authorized representative of ASTEC and Customer. If any provision of this Contract would otherwise be unenforceable or void, (i) that provision shall be deemed modified to the minimum extent necessary so that the provision is valid and enforceable, (ii) such provision as so modified shall be enforced, and (iii) the remaining provisions of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Contract delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same effect as delivery of an original signed copy of this Contract.

## INSTALLATION TERMS AND CONDITIONS

**PRICING:**

Below price is valid for 180 days after date of this proposal.  
Below price is valid for 180 days after date of this contract acceptance\*.  
Below prices do not include any state or other taxes that may be applicable.

**ADDITIONAL EQUIPMENT:**

Any equipment, new, used, existing or otherwise, that is added to the equipment contract after this installation contract is signed and is not currently listed on Exhibit "A" requires money to be added to this contract.

**RELEASE PROCEDURE:**

Prior to installation date, the purchaser, the Astec regional sales manager and an Astec erection supervisor shall meet to determine if the plant site is 100% ready for erection to begin.

**DELAY:**

\*If Astec is not released by the customer to begin installation within 180 days after signing of the contract and at subsequent 90 day intervals, Astec reserves the right to review the contract price.

**TERMS:**

20% Down payment with signed contract.  
Balance due on completion of installation of equipment and turning of motors.

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**PRICE:** \$68,930.00 (U.S.D) Sixty Eight Thousand Nine Hundred Thirty Dollars and 00/100 cents.

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*Any and all taxes levied as a result of this transaction are the responsibility of the purchaser.*

# CCD EXHIBIT A - PO-00064047 - Continued

July 13, 2018

ASTEC Proposal Number: 18KR0557C  
City and County of Denver, Denver, CO

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the Effective Date by their respective duly authorized officers.

This contract is made in Chattanooga, Tennessee.

## RESPECTFULLY SUBMITTED

ASTEC, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Kent Hood  
Title: Regional Sales Manager

## ORDER BY PURCHASER

The foregoing proposal is hereby offered as an order by Purchaser.

Date: 4-29-19

By: [Signature]

Name: Dance Jay  
City and County of Denver  
Title: \_\_\_\_\_

Chief Procurement Officer

## ACCEPTANCE OF ORDER BY COMPANY

The foregoing order is hereby accepted at Chattanooga Tennessee, as of the date of acceptance.

ASTEC, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Thomas A. Baugh  
Title: Vice President - North American Sales

## EXHIBIT "A"

- 1 RDM-VPAC-50-7 Stack Temperature Control System for 7' Double Barrel®
- 1 ITC-3612 36" Inclined Traverse Conveyor (Replaces Existing)
- 1 TC-3620-IC Inclined 36" x 20' Crossover Traverse Conveyor
- 3 NGW-300 300 Ton New Generation Storage Silo, 14' Diameter
- 1 ITC-3614 36" Inclined Traverse Conveyor
- 1 TC-3614 36" Traverse Conveyor
- 1 LPSII-10011 11' x 100' Low Profile Truck Scale
- 1 WM-2000 Additional scale input
- 1 SCIII Silo Control System (stand-alone)
- 1 BCIII Burner Control System (standalone) (Nexus for Canada)
- 2 FLMSCNR Fireeye flame scanner
- 1 SERVTEC-20 Service tech to install Controls and Train Operator



# CCD EXHIBIT B - PO-00064047

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[www.denvergov.org/purchasing](http://www.denvergov.org/purchasing)

## GENERAL CONDITIONS OF PURCHASE:

- 1. Non-Exclusive:** For purposes of these General Conditions of Purchase, Astec, Inc. shall be referred to as "Vendor" and the City and County of Denver shall be referred to as "City". This Purchase Order is non-exclusive. City does not guarantee any minimum purchase other than as provided herein
- 2. Inspection and Acceptance:** Vendor shall perform all services in accordance with the standard of care exercised by highly competent vendors who perform like or similar services. City may inspect all goods/services prior to acceptance. Payment does not constitute acceptance. Vendor shall bear the cost of any inspection/testing that reveal goods/services that are defective or do not meet specifications. City's failure to accept or reject goods/services shall not relieve Vendor from its responsibility for such goods/services that are defective or do not meet specifications nor impose liability on City for such goods/services. If any part of the goods/services are not acceptable to City because of failure to comply with contractual requirements, City may, in addition to any other rights it may have at law or in equity: (1) make a warranty claim; or (2) reject and return the goods at Vendor's cost and/or reject the services at Vendor's expense for full credit. Any rejected goods/services are not to be replaced without written authorization from City, and any such replacement shall be on the same terms and conditions contained in this Purchase Order.
- 3. Shipping, Taxes and Other Credits and Charges:** Freight and similar charges shall not be included in the price and the order is made FCA Vendor Factory. Shipments must be marked with Vendor's name, the Purchase Order number, and contain a delivery or packing slip.
- 4. Risk of Loss:** Vendor shall bear the risk of loss, injury or destruction of goods prior to tender to the carrier. Loss, injury or destruction shall not release Vendor from any obligation hereunder.
- 5. Invoice:** Each invoice shall include: (i) the purchase order number; (ii) individual itemization of the goods/services; (iii) per unit price, extended and totaled; (iv) quantity ordered, back ordered and shipped; (v) an invoice number and date; (vi) ordering department's name and "ship to" address; and (vii) agreed upon payment terms set forth herein.
- 6. Payment:** Payment shall be subject to City's Prompt Payment Ordinance D.R.M.C. § 20-107, et-seq. after City accepts the goods/services. City's payment obligations hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Purchase Order, encumbered for the purpose of this Purchase Order and paid into the Treasury of City. Vendor acknowledges that: (i) City does not by this Purchase Order, irrevocably pledge present cash reserves for payments in future fiscal years; and (ii) this Purchase Order is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of City.
- 7. Amendments/Changes:** The Vendor has no authority to bind City on any contractual matters.
- 8. Warranty:** Except as otherwise provided herein, Vendor shall repair, or at its option replace FCA point of shipment, any goods manufactured by it and furnished hereunder which within one hundred eighty (180) from shipment or ninety (90) days from start-up, whichever period runs first, is found to be defective in design, workmanship, or material, provided any operation of the goods by City has been in accordance with generally approved practice as instructed by Vendor service personnel or set forth in Vendor service instructions, if any, and provided that City notifies Vendor in writing as soon as such defect becomes apparent. The right to have defective goods repaired or replaced shall constitute the sole and exclusive remedy for breach of this limited warranty. Labor for warranty repair will be paid under a formula determined by Vendor.

# CCD EXHIBIT B-PO-00064047-Continued



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Vendor makes no warranties or guarantees with respect to goods not manufactured by Vendor, including but not limited to diesel engines, motors, scales, speed reducers, and other assemblies, valves, solenoids, and other parts and accessories. Liners, castings, and furnace refractories, which are subject to wide variations of destructive service, are not covered by this warranty and are a maintenance responsibility of City from the beginning of operation, unless special warranties are expressly extended as special provisions of this Purchase Order. Vendor will pass through to City any warranties and limitations provided by the original manufacturer of parts used in the goods manufactured by Vendor, but Vendor does not provide any warranty as to such items.

No warranty shall apply to goods which have been repaired or altered by others so as, in Vendor's judgment, to adversely affect the same or which shall have been subject to negligence, accident, abuse or improper care, installation, maintenance, storage or other than normal use or service, during or after shipment. No warranty shall apply to any used goods. No warranty shall apply to any goods adversely affected by being used with any machinery, part or accessory not manufactured or authorized by Vendor.

Vendor does not warrant or represent that any goods furnished by it meet any federal, state or local safety, environmental or electrical regulations. Vendor is wholly discharged from all liability under this warranty in the event that City fails to pay for the goods in accordance with the applicable purchase terms. This warranty extends only to the first end-user and is not transferable. This warranty may not be modified except pursuant to a written agreement signed by Vendor.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED (EXCEPT WARRANTY OF TITLE), INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTY FROM COURSE OF DEALING OR USAGE OF TRADE, EACH OF WHICH IS EXPRESSLY DISCLAIMED. VENDOR SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES WHATSOEVER WITH RESPECT TO GOODS MANUFACTURED OR FURNISHED BY IT OR ANY SERVICES, UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO. THE PARTIES FURTHER AGREE THAT VENDOR IS NOT LIABLE TO CITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF PRODUCTION, LOSS OF USE OR LOSS OF CONTRACTS, OR FOR ANY OTHER INDIRECT LOSS RESULTING FROM ANY BREACH OF WARRANTY OR ANY TERM OF THIS PURCHASE ORDER. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

9. Indemnification/Limitation of Liability: Vendor shall indemnify and hold harmless City (including but not limited to its employees, elected and appointed officials, agents and representatives) against any and all losses, liability, damage, claims, demands, actions and/or proceedings and all costs and expenses connected therewith (including without limitation attorneys' fees) that arise out of or relate to any claim of infringement of patent, trademark, copyright, trade secret or other intellectual property right by Vendor or that are caused by or the result of any negligent act or omission of Vendor, its agents, suppliers, employees, or representatives. Vendor's obligation shall not apply to any liability or damages to the extent caused by the negligence of City or the City's use or operation of the goods provided by Vendor. Neither Vendor nor City shall be liable for any consequential, incidental, indirect, special, reliance, or punitive damages or for any lost profits or revenues, regardless of the legal theory under which such liability is asserted. In no event shall Vendor's or City's aggregate liability exceed the agreed upon cost for those goods/services that have been provided to City under this Purchase Order up to the Total Purchase Order Amount. Notwithstanding anything contained in this Purchase Order to the contrary, City in no way limits or waives the rights, immunities and protections provided by C.R.S. § 24-10-101, et seq.



# CCDEXHIBIT B-PO-00064047-Continued



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10. Termination: City may terminate this Purchase Order, in whole or in part, immediately upon written notice to Vendor if Vendor has not performed or complied with any of the terms or conditions herein. Termination by City shall not constitute a waiver of any claims City may have against Vendor.
11. Interference: Vendor shall notify the Director of Purchasing immediately of any condition that may interfere with the performance of Vendor's obligations under this Purchase Order and confirm such notification in writing within twenty-four (24) hours. City's failure to respond to any such notice shall in no way act as a waiver of any rights or remedies City may possess.
12. Venue, Choice of Law and Disputes: Venue for all legal actions shall lie in the District Court in and for City and County of Denver, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Revised Municipal Code, rules, regulations, Executive Orders, and fiscal rules of City.
13. Assignment/No Third Party Beneficiary: Vendor shall not assign or subcontract any of its rights or obligations under this Purchase Order without the written consent of City. In the event City permits an assignment or subcontract, Vendor shall continue to be liable under this Purchase Order and any permitted assignee or subcontractor shall be bound by the terms and conditions contained herein. This Purchase Order is intended solely for the benefit of City and Vendor with no third party beneficiaries
14. Notice: Notices shall be made by Vendor to the Director of Purchasing and by City to Vendor at the addresses provided herein, in writing sent registered, return receipt requested.
15. Compliance With Laws: Vendor shall observe and comply with all federal, state, county, city and other laws, codes, ordinances, rules, regulations and executive orders related to its performance under this Purchase Order. City may immediately terminate this Purchase Order, in whole or in part, if Vendor or an employee is convicted, plead nolo contendere, or admits culpability to a criminal offense of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature.
16. Insurance: Vendor shall secure, before delivery of any goods/services, the following insurance covering all operations, goods and services provided to City. Vendor shall keep the required insurance coverage in force at all times during the term of the Purchase Order, or any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to the Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior." Additionally, Vendor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, City must be notified by Vendor. Vendor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Purchase Order are the minimum requirements, and these requirements do not lessen or limit the liability of Vendor. Vendor shall provide a copy of this Purchase Order to its insurance agent or broker. Vendor may not commence services or work relating to the Purchase Order prior to placement of coverage. Contractor certifies that the attached certificate of insurance attached to the Purchase Order documents, preferably an ACORD certificate, complies with all insurance requirements of this Purchase Order. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Purchase Order shall not act as a waiver of Vendor's breach of this Purchase Order or any of the City's rights or remedies under this Agreement. The

# CCD EXHIBIT B-PO-00064047-Continued



General Services  
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City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements. Vendor's insurer shall name as Additional Insured to its Commercial General Liability and Business Auto Liability policies the City and County of Denver, its elected and appointed officials, employees and volunteers. Vendor's insurer shall waive subrogation rights against the City. All sub-contractors and sub-consultants (including independent contractors, suppliers or other entities providing goods/services required by this Purchase Order) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Vendor. Vendor shall include all such entities as insureds under its policies or shall ensure that they all maintain the required coverages. Vendor shall provide proof of insurance for all such entities upon request by City. For Worker's Compensation Insurance, Vendor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 for each bodily injury occurrence claim, \$100,000 for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Vendor expressly represents to City, as a material representation upon which City is relying, that none of the Vendor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Purchase Order, and that any such rejections previously effected, have been revoked. Vendor shall maintain Commercial General Liability coverage with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate. Vendor shall maintain Business Auto Liability coverage with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-hired vehicles used in performing services under this Purchase Order. For Commercial General Liability coverage, the policy must provide the following: (i) That this Purchase Order is an Insured Contract under the policy; (ii) Defense costs in excess of policy limits; (iii) A severability of interests, separation of insureds or cross liability provision; and (iv) A provision that coverage is non-contributory with other coverage or self-insurance provided by City. For claims-made coverage, the retroactive date must be on or before the first date when any goods or services were provided to City. Vendor must advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**17. Severability:** If any provision of this Purchase Order, except for the provisions requiring appropriation and encumbering of funds and limiting the total amount payable by City, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of City and Vendor can be fulfilled.

**18. Survival:** All terms and conditions of this Purchase Order which by their nature must survive termination/expiration shall so survive. Without limiting the foregoing, Vendor's insurance, warranty and indemnity obligations shall survive for the relevant warranty or statutes of limitation period plus the time necessary to fully resolve any claims, matters or actions begun within that period. Bonds shall survive as long as any warranty period.

**19. No Construction Against Drafting Party:** No provision of this Purchase Order shall be construed against the drafter.

# CCDE EXHIBIT B - PO-00064047 - Continued



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- 20. Status of Vendor/Ownership of Work Product:** Vendor is an independent contractor retained on a contractual basis to perform services for a limited period of time as described in Section 9.1.1E(x) of the Charter of City. Vendor and its employees are not employees or officers of City under Chapter 18 of the D.R.M.C. for any purpose whatsoever. All goods, deliverables, hardware, software, plans, drawings, reports, submittals and all other documents or things furnished to City by Vendor shall become and are the property of City, without restriction.
- 21. Records and Audits:** Vendor shall maintain for three (3) years after final payment hereunder, all pertinent books, documents, papers and records of Vendor involving transactions related to this Purchase Order, and City shall have the right to inspect and copy the same.
- 22. Remedies/Waiver:** No remedy specified herein shall limit any other rights and remedies of City at law or in equity. No waiver of any breach shall be construed as a waiver of any other breach.
- 23. No Discrimination in Employment:** Vendor shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and Vendor shall insert the foregoing provision in any subcontracts hereunder.
- 24. Use, Possession or Sale of Alcohol or Drugs:** Vendor shall cooperate and comply with the provisions of Executive Order 94. Violation may result in City terminating this Purchase Order or barring Vendor from City facilities or from participating in City operations.
- 25. Conflict of Interest:** No employee of City shall have any personal or beneficial interest in the goods/services described in this Purchase Order; and Vendor shall not hire or contract for services any employee or officer of City which would be in violation of City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.
- 26. Advertising and Public Disclosure:** The Vendor shall not include any reference to the Purchase Order or to services performed or goods purchased pursuant to the Purchase Order in any of the Vendor's advertising or public relations materials without first obtaining the written approval of the Director of Purchasing.
- 27. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:** a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance"). b. The Contractor certifies that: (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement. (2) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement. c. The Contractor also agrees and represents that: (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement. (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement. (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program. (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor to

# CCDEXHIBIT B-PO-00064047-Continued

comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien. (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3. d. The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

28. In order to receive payment, a complete and responsive invoice must be submitted as required by the City's Prompt Payment Ordinance Article VII of Chapter 20, D.R.M.C., which includes clearly stating the City-generated purchase order or contract number on the invoice and complying with the City's invoicing instructions, including delivery of the invoice to the proper City official or agency.

29. Federal Provisions: Where the source of the funds, directly or indirectly for this Purchase Order is the Federal Government, the Vendor agrees to the applicable provisions set out below. The Vendor shall be responsible for determining which terms are applicable to its products and/or services.

30. **EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE** Contractor agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60). **DAVIS- BACON ACT COMPLIANCE** Contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. 3148 to 3148) as supplemented by Department of Labor regulations (29 CFR part 5). **ANTI-KICKBACK ACT COMPLIANCE** Contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). **CONTRACT WORK HOURS AND SAFETY STANDARDS** Contractor agrees to comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5) **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT** Contractor agrees to comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. **CLEAN AIR AND WATER REQUIREMENTS** Contractor agrees to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et. seq.), and the Clean Water Act (33 U.S.C. 1251 et. seq.). Contractor agrees to report each violation of these

# CCD EXHIBIT B-PO-00064047-Continued

requirements to the City and understands and agrees that the City will, in turn, report each violation as required to the appropriate EPA regional office. **ENERGY CONSERVATION REQUIREMENTS** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (42 U.S.C. 6201) **NO SUSPENSION OR DEBARMENT** Contractor certifies that neither it nor its Principals or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency. **BYRD ANTI-LOBBYING.** If the Maximum Contract Amount exceeds \$100,000, the Contractor must complete and submit to the City a required certification form provided by the City certifying that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract grant of any other award covered by 31 U.S.C. 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**31. Prevailing Wages:** Any contract in the amount of two thousand dollars (\$2,000.00) or more arising out of this proposal shall be subject to the following provisions concerning prevailing wages.

- a. The minimum wages to be paid for every class of labor, mechanics and worker shall be not less than the scale of wages from time to time determined to be the prevailing wages.
- b. The Vendor or his/her subcontractor shall pay mechanics, laborers and workers employed directly upon the site of the work the full amounts accrued at time of payment, computed at wage rates not less than those stated or referenced in the specifications, and any addenda thereto, on the actual date of proposal opening, or in effect on the date of grant of permit for performance of such work under D.R.M.C. Section 49-171 et seq., or on the date of the written Purchase Order for contracts let by informal procedure under D.R.M.C. Section 20-63(b), regardless of any contractual relationship which may be alleged to exist between the vendor or subcontractor and such laborers, mechanics and workers.
- c. The vendor and subcontractors to pay all workers, mechanics and other laborers at least once a week the full amounts of wages accrued at the time of payment except that the vendor and subcontractor shall make such payments to non-construction workers such as janitorial or custodial workers at least twice per month.
- d. The vendor shall post in a prominent and easily accessible place at the site of the work the scale of wages to be paid by the vendor and all subcontractors working under the vendor.
- e. If the vendor or any subcontractor shall fail to pay such wages as are required by the contract, the Auditor shall not approve any warrant or demand for payment to the vendor until the vendor furnishes the Auditor evidence satisfactory to the Auditor that such wages so required by the contract have been paid.
- f. The vendor shall furnish to the Auditor each week during which work is in progress under the contract, a true and correct copy of the payroll records of all workers, laborers and mechanics employed under the contract, either by the vendor or subcontractors.
- g. The copy of the payroll record shall be accompanied by a sworn statement of the vendor that the copy is a true and correct copy of the payroll records of all mechanics, laborers or other workers working under the contract either for the vendor or subcontractors, that payments were made to the workers, laborers and mechanics as set forth in the payroll records, that no deductions were made other than those set forth in such records, and that all workers, mechanics and other laborers employed on work under the contract, either by the vendor or by any subcontractor, have been paid the prevailing wages as set forth in the contract specifications.
- h. If any laborer, worker or mechanic employed by the vendor or any subcontractor under the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the City may, by written notice to the vendor, suspend or terminate the vendor's right to proceed with the work, or such part of the work as to which there has been a failure to pay the required wages, and in the event of termination may prosecute the work to completion by contract or otherwise, and the vendor and any sureties shall be liable to the City for any excess costs occasioned the City thereby.

Information as to forms and other requirements concerning prevailing wages may be obtained from the City Auditor's office, Prevailing Wage Section, 201 West Colfax, Denver, CO 80202, telephone 720-913-5009.

## SALES PROPOSAL GENERAL TERMS AND CONDITIONS OF SALE

**GENERAL:** As used herein, "Equipment" is the equipment and/or parts identified in this Sales Proposal. These General Terms and Conditions of Sale (the "Terms") and the remaining sections of this Sales Proposal are collectively referred to in the Terms as the "Agreement." The Agreement sets forth the entire, exclusive and complete agreement of Astec and Purchaser with respect to the sale and purchase of the Equipment, and supersedes any prior or contemporaneous written or oral agreement, understanding and communications and any course of dealing, usage of trade or course of performance. This Agreement prevails over any of Purchaser's terms and conditions of purchase or purchase order, regardless of whether or when Purchaser submitted such terms and conditions or purchase order. No waiver or modification of any of this Agreement shall be effective unless in writing and signed by Astec. Notwithstanding the foregoing, if there is any conflict between these Terms and the General Terms of Purchase attached to this proposal as Exhibit A, the General Terms of Purchase shall prevail.

**PERFORMANCE CONDITIONS:** The performance of the Equipment covered in this proposal cannot be exactly predicted for every operating condition. In consequence, any predicted performance data submitted is intended to show probable operating results which may be closely approximated, but which cannot be guaranteed except as expressly stated in the warranty clause herein.

**ENGINEERING:** Astec and Purchaser acknowledge and contemplate that any engineering services for which Astec is responsible pursuant to this Agreement will be performed by engineers employed by Astec only to the extent allowed by applicable laws and regulations. Otherwise, such engineering services will be provided by qualified, licensed engineers selected and retained by Astec at Astec's expense. Except as otherwise provided herein, Astec and Purchaser acknowledge and contemplate that upon acceptance of this order by Astec, Astec's engineering department or a qualified, licensed engineer selected and retained by Astec at Astec's expense will perform whatever engineering analysis and design is necessary to facilitate the efficient and effective operation and performance of the Equipment being furnished to Purchaser as set forth herein, and will prepare whatever plant layouts, drawings, and design specifications are necessary in Astec's discretion to facilitate optimal performance. Astec and Purchaser further acknowledge and contemplate that this engineering process may result in modifications or changes which may include, but are not limited to: modifications in conveyor lengths, sizes, speeds, angles, or positions; changes in motor sizes; changes in Equipment or plant configuration; and modifications or parts lists. No such modifications or changes shall constitute a breach of contract by Astec.

**DRAWINGS:** Astec will furnish Purchaser with necessary drawings and instruction for erection of the Equipment. Astec will not be held responsible for design and/or installation of footings and/or other items necessary for installing the Equipment unless otherwise stated herein.

**DIFFERING SITE CONDITIONS:** If, in the performance of this Agreement, subsurface or latent conditions at the site are found to be materially different from those indicated by geotechnical reports provided by Purchaser, or unknown conditions of an unusual nature are disclosed differing materially from those ordinarily encountered, then such conditions may result in adjustments to the price and dates for delivery, setup and startup. No such adjustments shall constitute a breach of contract by Astec.

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**CONFIDENTIALITY:** All non-public, confidential or proprietary information of Astec, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, Purchaser lists, discounts or rebates disclosed by Astec to Purchaser, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement shall be treated by Purchaser as confidential and may not be disclosed to any third party or copied by Purchaser unless authorized in advance by Astec in writing. Upon Astec's request, Purchaser shall return all documents and other materials received from Astec. Astec shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Purchaser at the time of disclosure; or (c) rightfully obtained by Purchaser on a non-confidential basis from a third party.

**WARRANTY:** Except as otherwise provided herein, Astec shall repair, or at its option replace FCA point of shipment, any Equipment manufactured by it and furnished hereunder which within ninety (90) days from shipment, so long as shipment occurs within one hundred eighty (180) days of Astec's Ready to Ship Notification To Purchaser, is found to be defective in design, workmanship, or material, provided any operation of the Equipment by Purchaser has been in accordance with generally approved practice as instructed by Astec service personnel or set forth in Astec service instructions, if any, and provided that Purchaser notifies Astec in writing as soon as such defect becomes apparent. The right to have defective Equipment repaired or replaced shall constitute the sole and exclusive remedy for breach of this limited warranty. Labor for warranty repair will be paid under a formula determined by Astec.

Astec makes no warranties or guarantees with respect to Equipment not manufactured by Astec, including but not limited to diesel engines, motors, scales, speed reducers, and other assemblies, valves, solenoids, and other parts and accessories. Liners, castings, and furnace refractories, which are subject to wide variations of destructive service, are not covered by this warranty and are a maintenance responsibility of Purchaser from the beginning of operation, unless special warranties are expressly extended as special provisions of this Agreement. Astec will pass through to Purchaser any warranties and limitations provided by the original manufacturer of parts used in the Equipment manufactured by Astec, but Astec does not provide any warranty as to such items.

No warranty shall apply to Equipment which has been repaired or altered by others so as, in Astec's judgment, to adversely affect the same or which shall have been subject to negligence, accident, abuse or improper care, installation, maintenance, storage or other than normal use or service, during or after shipment. No warranty shall apply to any used Equipment. No warranty shall apply to any Equipment adversely affected by being used with any machinery, part or accessory not manufactured or authorized by Astec.

Astec does not warrant or represent that any Equipment furnished by it meets any federal, state or local safety, environmental or electrical regulations. Astec is wholly discharged from all liability under this warranty in the event that Purchaser fails to pay for the Equipment in accordance with the applicable purchase terms. This warranty extends only to the first end-user and is not transferable. This warranty may not be modified except pursuant to a written agreement signed by Astec.

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**THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED (EXCEPT WARRANTY OF TITLE), INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTY FROM COURSE OF DEALING OR USAGE OF TRADE, EACH OF WHICH IS EXPRESSLY DISCLAIMED. ASTEC SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES WHATSOEVER WITH RESPECT TO EQUIPMENT MANUFACTURED OR FURNISHED BY IT OR ANY SERVICES, UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO. THE PARTIES FURTHER AGREE THAT ASTEC IS NOT LIABLE TO PURCHASER FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF PRODUCTION, LOSS OF USE OR LOSS OF CONTRACTS, OR FOR ANY OTHER INDIRECT LOSS RESULTING FROM ANY BREACH OF WARRANTY OR ANY TERM OF THIS AGREEMENT. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

**IN NO EVENT SHALL ASTEC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO ASTEC FOR THE EQUIPMENT SOLD HEREUNDER.**

**SECURITY INTEREST; COST OF RECORDING:** Purchaser hereby conveys and grants to Astec a purchase money security interest in the Equipment to secure payment by Purchaser of all amounts due hereunder including the purchase price and such other debts, obligations and liabilities of Purchaser to Astec which may now exist or hereafter arise, whether absolute or contingent, or primary or secondary, together with all extensions or renewals for the foregoing and all expenses, legal or otherwise (including court costs and attorney's fees) incurred by Astec in collecting or endeavoring to collect any or all of the foregoing, in protecting any collateral and in enforcing this contract. The Equipment shall remain personal property in all respects notwithstanding the manner of annexation of any of the Equipment to realty. Purchaser agrees to execute any instrument or document considered necessary by Astec to perfect its security interest in the Equipment, including, but not limited to, financing statements, chattel mortgages, deeds of trust, deeds to secure debt, mortgages or other security instruments. Until default hereunder, Purchaser may have possession of the Equipment and use the same in any lawful manner not inconsistent with these general conditions or with any policy on insurance thereon. Purchaser will pay the costs and taxes due for recording and filing any Financing, Continuation or Termination Statements with respect to Astec's security interest in the Equipment or in connection with any of the other security documents referred to above.

**EQUIPMENT NOT TO BE REMOVED:** As long as the security interest in the Equipment is retained by Astec, the Equipment shall not be removed from the erection site and Purchaser shall not permit, voluntarily or involuntarily, the Equipment or any pan of it to be sold, transferred, encumbered, attached, seized or removed in any manner whatsoever.



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**DEFAULT:** Upon default by Purchaser in the payment of the purchase price or any portion thereof when due or in the payment of all or any portion of any other indebtedness secured under this contract when due or in the performance of any other term or provision hereof, all unpaid amounts due Astec shall thereupon be immediately due and payable and Astec shall have the rights and remedies contained herein and the rights and remedies of a secured party under the Uniform Commercial Code of the State of Colorado or under the laws of any other jurisdiction as a court of competent jurisdiction shall determine to be applicable. In the event of default, the following provisions shall apply: (a) Purchaser shall, upon request of Astec, assemble the Equipment and make it available to Astec at a place designated by Astec; (b) Astec may enter Purchaser's premises where any part of the Equipment is located, and take possession of and remove all or any portion of the Equipment for purposes of disposition pursuant hereto; (c) Purchaser agrees that sales for cash or on credit to a wholesaler, retailer, or user or property of the type subject to this Agreement or at public auction or private sale are all commercially reasonable; (d) Astec shall give Purchaser notice of the time and place of any sale of any of the Equipment or of the time after which any private sale or any other intended disposition thereof is to be made by notice, postage prepaid and addressed to Purchaser at the latest address of Purchaser appearing on the records of Astec at least seven (7) days before the time of the sale or other disposition, which provisions for notice Purchaser and Astec agree are reasonable; (e) any proceeds of any disposition of any of the Equipment may be first applied by Astec to the payment of expenses in connection with exercising its rights and remedies hereunder, including reasonable attorney's fees and legal expenses, and any balance of such proceeds may be as Astec may elect in its sole discretion; (f) if the sale or other disposition of the Equipment fails to satisfy in full obligations of Purchaser secured by this Agreement, and the reasonable expenses of retaking, holding, preparing for sale, selling and the like, including reasonable attorney's fees and legal expenses incurred by Astec in connection with this Agreement or the obligation it secures, Purchaser shall be liable for any deficiency.

**PERMITS AND APPROVAL OF PLANS:** Purchaser assumes all responsibility for securing any necessary governmental approvals of the plans and specifications and any permits required for the installation of the Equipment, all at Purchaser's expense.

**PERMIT CONTINGENCY:** If the purchase of Equipment under this proposal is contingent on Purchaser's receipt of one or more permits or other governmental approvals, then the price set forth in this proposal will be binding on Astec only if Purchaser notifies Astec within ninety (90) days after acceptance by Astec that all contingencies have been fulfilled or are waived. If the contingency period extends more than ninety (90) days after acceptance by Astec, the price may be increased to reflect increases in Astec's cost of purchased components and/or raw materials.

**COMPLIANCE WITH APPLICABLE LAWS:** Purchaser assumes all responsibility for complying with all federal, state and local statutes, laws, codes, regulations and ordinances in connection with the installation and operation of the Equipment and any other activity related thereto, including, without limitation, the Environmental Protection Act and all rules all federal, state and local environmental laws and regulations relating to pollution and protection of the environment and the Occupational Safety and Health Act and all rules and regulations promulgated thereunder.

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**SHIPMENT:** If Purchaser is in default of any of its obligations under this Proposal, Astec may, at its election, withhold any further performance of its obligations and duties under this Proposal until such time as such default has been cured by Purchaser, in which event the anticipated date of shipment as set forth herein shall be adjusted accordingly. Astec shall not be liable or responsible for, nor shall the contract price, stated herein, be reduced by any amount because of any matters beyond the control of Astec which delay or postpone the anticipated date set forth above for the delivery of the Equipment, such matters including, but not limited to, warlike acts, civil disorder, governmental restriction, acts of God, prior sale, acceptance of United States governmental contracts, strike, lockout, accidents, freight embargo, fire, flood, inability of Astec to obtain necessary materials, supplies, labor or transportation, or any unforeseen water, soil or rock conditions.

A detailed shipping list will accompany the bill of lading and Purchaser agrees to check this Equipment as it is unloaded and any claim for shortage against Astec will be made in writing within 24 hours of time of unloading, to be followed by an affidavit (if required) from the person in charge of the unloading. Claims for loss in transit will be made on the carrier by Purchaser.

Except to the extent otherwise provided herein, Purchaser has full responsibility for erection and installation.

**POSTPONED DELIVERY:** If, through no fault of Astec, delivery is delayed or postponed over ninety (90) days, Purchaser shall pay to Astec any additional costs, including plant Equipment storage, incurred by Astec arising from such delay or postponement. In addition, the balance remaining unpaid on the contract price shall become due and payable. If, as a result of the delay the Equipment requires repainting, all costs associated with repainting shall be paid by Purchaser.

**EQUIPMENT CERTIFICATION:** Once certification and fabrication has been completed on control houses and power houses, if state certification specifications change or unit(s) is to be shipped to a location other than that for which the certification was acquired, the cost of any recertification and/or modifications required to the Equipment shall be paid by Purchaser.

**LIMITATION OF PROPOSAL:** The price and terms quoted in this proposal are subject to acceptance by Purchaser within a period 15 days from the date hereof, except that Astec shall have the right to withdraw its proposal at any time before formal acceptance by Purchaser.

**EXECUTION OF CONTRACT:** This Proposal is merely the solicitation of an order and is not an offer from Astec to Purchaser (even though executed on behalf of Astec under "RESPECTFULLY SUBMITTED,") and does not obligate Astec in any manner whatsoever until this Proposal is both executed below on behalf of Purchaser as an order made to Astec as well as executed below on behalf of Astec as an acceptance of such order from Purchaser, at which time this proposal shall become a binding contract between Astec and Purchaser. Once this Proposal has become a binding contract, it cannot be suspended or cancelled without the prior written consent of Astec, which may be withheld in the sole discretion of Astec. In no event will consent be given without full reimbursement by Purchaser of all Astec's expenses, damages and losses arising from cancellation or suspension.

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**SEVERABILITY:** If any provision of this Agreement is found to be legally invalid or unenforceable: (i) the validity and enforceability of the remainder of this Agreement shall not be affected, (ii) such provision shall be deemed modified to the minimum extent necessary to make such provision consistent with applicable law, and (iii) such provision shall be valid, enforceable and enforced in its modified form.

**ASSIGNMENT:** Purchaser shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Astec. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Purchaser of any of its obligations under this Agreement.

**LAW CONTROLLING:** This Agreement and all questions regarding the performance of the parties hereunder shall be controlled by the laws of the State of Colorado. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement or the transactions contemplated thereby.

**BACK-CHARGES AND ALLOWANCES:** Astec shall not be called upon to make any allowance for material, labor, repairs or alterations made for its account unless authorized by Astec in writing.

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**INSPECTION AND ACCEPTANCE PERIOD:** Purchaser agrees to inspect the Equipment immediately after delivery, or, in the event the Equipment is to be installed by Astec, immediately after such installation by Astec. Purchaser also agrees that any claims which Purchaser may have of any nature whatsoever after such inspection, including, but not limited to, any claims for nonconforming Equipment or improper installation (if installation has been rendered by Astec), shall be made in writing to Astec within NINETY (90) calendar days after such delivery or installation (as the case may be) (such NINETY- (90) day period being referred to herein as the "Acceptance Period"), otherwise any such claim shall be deemed waived and shall not be enforceable against Astec except to the extent that such claims come within the scope of the limited warranty set forth above.

**RESPONSIBILITY OF PURCHASER FOR OPERATION OF EQUIPMENT:** The operation of the Equipment both prior and subsequent to the Acceptance Period shall be the sole and exclusive responsibility of Purchaser. Any assistance rendered by Astec's representatives during the Acceptance Period in connection with the preliminary operations and demonstrations of capacity and performance of the Equipment or in any other capacity shall be given solely in a consulting or advisory capacity and shall not release Purchaser in any manner whatsoever from its responsibility for operating the Equipment.

## SALES PROPOSAL SOFTWARE TERMS OF USE

These Software Terms of Use ("Terms of Use") govern the use of Astec software ("Software"), including all user manuals, technical manuals and any other materials in printed, electronic or other form, that describe the Software or its use (collectively, "Documentation") that is or has been furnished by Astec to Purchaser for use in connection with the Equipment.

1. **License Grant.** Subject to Purchaser's strict compliance with these Terms of Use and pursuant to and conditioned upon Purchaser's compliance with all of the terms of the purchase agreement for the Equipment (the "Equipment Purchase Agreement"), including, but not limited to its payment terms, Astec hereby grants to Purchaser a non-exclusive, non-transferable, non-sublicensable, limited license to use the Software solely in connection with its operation of the Equipment pursuant to the instructions contained in the Documentation. The foregoing license will terminate immediately on the earlier to occur of: (a) Purchaser's removal, disposal or transfer of the Equipment; or (b) Purchaser's failure to comply with these Terms of Use.
2. **Use Restrictions.** Purchaser shall not, directly or indirectly: (a) use the Software or Documentation except as set forth in Paragraph 1; (b) copy the Software or Documentation, in whole or in part; (c) modify, translate, adapt or otherwise create derivative works of the Software or any part thereof; (d) combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other software programs; (e) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Software or any part thereof; (f) remove, delete, alter or obscure any trademarks or any copyright or other intellectual property or proprietary rights notices included on or in the Software or Documentation; (g) transfer or otherwise provide any access to or use of the Equipment or the Software or any features or functionality of the Software, for any reason, to any other person or entity; (h) use or attempt to use the Software or Documentation in, or in association with, components, systems or equipment other than the Equipment; (i) use or attempt to use the Software or Documentation in violation of any law, regulation or rule; or (j) use or attempt to use the Software or Documentation for purposes of competitive analysis of the Software, the development of a competing software product or service or any other purpose that is to Astec's commercial disadvantage.
3. **Compliance Measures.** The Software contains technological copy protection or other security features designed to prevent unauthorized use of the Software, including features to protect against use of the Software in a manner: (a) that is beyond the scope of the license granted to Purchaser hereby; or (b) that is prohibited under Paragraph 2. Purchaser agrees that it shall not, and shall not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to, any such copy protection or security features.
4. **Collection and Use of Information.** Astec may, directly or indirectly through the services of other affiliated parties, collect and store information regarding use of the Software and the Equipment. Purchaser agrees that Astec may use such information for any purpose that it deems fit. Astec assumes no duty to review, access, use or retain the information collected. Purchaser consents to the collection, transmission and sharing of the information described above, and authorizes Astec, its affiliates, subsidiaries and distributors to gather, process and use, without limitation, the information developed or collected by or in connection with the Software. This may include sharing of such information with select third parties and business partners.

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5. **Remote Access Services.** A representative of Astec may provide technical support through the Software ("Remote Access Services"). Any Remote Access Services are provided at Purchaser's sole risk. The ability for Astec to remotely access the Software and Equipment significantly enhances Astec's ability to resolve Purchaser's technical problem quickly. Purchaser understands that the provision of Remote Access Services requires Purchaser to provide Astec's technical support personnel with access to and control of the Software and Equipment. Astec may, but has no obligation to, troubleshoot, evaluate, run programs or install/uninstall Software, reconfigure and/or otherwise perform service or technical support work on the Software and Equipment, either directly or through an internal network. Astec may make any changes that it determines are necessary to increase the performance of the Software or Equipment and/or to alleviate the problem at hand or any other problem discovered during the course of performing the Remote Access Services.

6. **Intellectual Property Rights.** Purchaser acknowledges that: (a) Purchaser does not acquire any ownership interest in the Software, or any rights to the Software other than the right to use the Software as provided herein; (b) Astec reserves and shall retain its entire right, title and interest in and to the Software and all intellectual property rights arising out of or relating to the Software, subject to the license expressly granted to Purchaser by this Agreement; and (c) Purchaser shall use commercially reasonable efforts to safeguard the Software and the media on which it is stored from infringement, misappropriation, theft, misuse or unauthorized access.

7. **Limited Warranties.** Astec warrants that, for a period of one year following the date of the purchase of the Equipment from Astec: (a) any media on which the Software is provided will be free of material damage and defects in materials and workmanship under normal use; and (b) the Software will substantially contain the functionality described in the Documentation, and when properly operated in accordance with the Documentation, will substantially perform as described therein. The warranties set out in this Paragraph 7 will not apply and will become null and void if Purchaser materially breaches any provision of this Agreement, or if Purchaser or any other person provided access by Purchaser to the Software or the media on which it is provided, whether or not in violation of this Agreement: (a) uses the Software in a manner other than as described in the Documentation; or (b) damages the Software or the media on which it is provided, including by means of abnormal physical or electrical stress.

8. **Purchaser's Exclusive Remedy.** If, during the warranty period set out in Paragraph 7, the Software fails to perform substantially in accordance with the Documentation, and such failure is not excluded from warranty pursuant to Paragraph 7, Astec will, subject to Purchaser's promptly notifying Astec in writing of such failure, at its sole option, either repair or replace the Software, provided that Purchaser provides Astec with all information Astec reasonably requests to resolve the reported failure, including sufficient information to enable Astec to recreate such failure. Upon such repair or replacement of the Software, the warranty will continue to run from the date of the purchase of the Equipment from Astec, and not from Purchaser's receipt of the repair or replacement. The remedies set forth in this Paragraph 8 are Purchaser's sole remedies and Astec's sole liability under the limited warranties described in Paragraph 7.

**9. Disclaimer of Warranties; Limitations of Liability.**

(A) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN PARAGRAPH 7, THE SOFTWARE AND DOCUMENTATION AND ANY REMOTE ACCESS SERVICES ARE PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LICENSOR, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION AND ANY REMOTE ACCESS SERVICES, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, LICENSOR PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

(B) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL LICENSOR OR ITS AFFILIATES BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY OR INABILITY TO USE THE SOFTWARE OR THE EQUIPMENT, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF SERVICES, BUSINESS OR GOODWILL, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM EQUIPMENT FAILURE, MALFUNCTION OR SHUTDOWN, LOSS RESULTING FROM THE PERFORMANCE OF, OR FAILURE TO PERFORM, ANY REMOTE ACCESS SERVICES, FAILURE TO ACCURATELY TRANSFER, READ OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION OR BREACHES IN SYSTEM SECURITY, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE OR THE EQUIPMENT PURCHASE AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(C) THE LIMITATIONS SET OUT IN THIS PARAGRAPH 9 SHALL APPLY EVEN IF LICENSEE'S REMEDIES UNDER THESE TERMS OF USE FAIL OF THEIR ESSENTIAL PURPOSE AND SHALL SURVIVE ANY TERMINATION OF THESE TERMS OF USE.

**10. Export Regulation.** The Software may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations. Purchaser agrees that it will not, directly or indirectly, export, re-export or release the Software to, or make the Software or Documentation accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. Purchaser agrees to comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Software available outside the United States.

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**11. Governing Law.** These Terms of Use are governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Colorado. Any legal suit, action or proceeding arising out of or related to these Terms of Use or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Colorado, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth in the Equipment Purchase Agreement shall be effective service of process for any suit, action or other proceeding brought in any such court.

**12. Effect of Certain Failures or Delays by Astec.** Astec will not be responsible or liable to Purchaser, or deemed in default or breach hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or Astec's equipment, loss and destruction of property or any other circumstances or causes beyond Astec's reasonable control.

**13. Notice.** All notices and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth in the Equipment Purchase Agreement (or to such other address as may be designated by a party from time to time in accordance with this Paragraph 13).

**14. Interpretation.** These Terms of Use are incorporated into and are a part of the Equipment Purchase Agreement. These Terms of Use apply to updates, supplements, add-on components or Internet-based service components of the Software that Astec may provide to Purchaser or make available to Purchaser after the date Purchaser obtains its initial copy of the Software, unless they are accompanied by separate terms. The headings in these Terms of Use are for reference only and do not affect the interpretation of these Terms of Use or the Equipment Purchase Agreement.



# CCD EXHIBIT C - PO-00064047 - Continued

March 11, 2019  
ASTECC Proposal Number: 18CK0878.2  
City and County of Denver, Denver, CO

## SALES PROPOSAL SIGNATURE PAGE

This agreement is made in Chattanooga, Tennessee.

### RESPECTFULLY SUBMITTED

ASTECC, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Kent Hood

Title: Regional Sales Manager

### ACCEPTANCE OF ORDER BY ASTECC

The foregoing order is hereby accepted at  
Chattanooga, Tennessee, as of the date of acceptance.

ASTECC, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Thomas A. Baugh

Title: VP, Sales

### ORDER BY PURCHASER

The foregoing proposal is hereby offered  
as an order by PURCHASER.

Date: 3-29-19

By: [Signature]

Name: Lance Jay

City and County of Denver

Title: Chief Procurement Officer