



**Purchase Order
No. 2016-00000412**

DATE 05/23/2016

Ph. (970) 244-1533

Fax (970) 256-4022

Ship To
City of Grand Junction
333 West Ave.
Building A
GRAND JUNCTION, CO 81501

Bill To
City of Grand Junction
333 West Ave.
Building A
GRAND JUNCTION, CO 81501

Vendor
VENDOR NO. 1495
Cobitco, Inc.
5301 N. Bannock Street
Denver, CO 80216
Phone: (303) 296-8575

PAGE 1 of 1
SHIP VIA Vendor Delivery
DELIVER BY
FREIGHT TERMS FOB Destination
Buyer Name: Nicholas C. Jones
Buyer Email: nickj@gjcity.org

Reference attached Quotation and Contract Dated 5/18/2016

QUANTITY	UNIT	DESCRIPTION	UNIT COST	TOTAL COST
235,500.0000	Gallon	ASPHALT AND EMULSIONS - CRS-2R	2.3000	\$541,650.00
PURCHASE ORDER TOTAL				\$541,650.00

Special Instructions: PURCHASE ORDER No. MUST APPEAR ON ALL INVOICES, SHIPPERS, PACKAGES, CORRESPONDENCE
Tax Exempt No. 98-03544
Requestor: Darren Starr. Invoice to be processed by the Streets Division.

By: Nicholas C Jones



COBITCO, Inc. • 5301 Bannock St. • Denver, CO 80216 • 303.296.8575 • Fax 303.297.3029

QUOTATION and CONTRACT

City of Grand Junction
250 N. 5th Street
Grand Junction, CO 80501
Attn: Nick Jones (970)244-1533

Project: 2016 Asphalt Emulsion supply

Product Available: 06-01-2016 to 09-30-2016

Price valid: 06-01-2016 to 07-30-2016 Price will be escalated/deescalated on the first of every month

PRODUCT	SPECIFICATIONS	QUANTITY	PKG	PRICE FOB Grand Junction, CO
CRS-2R	COBITCO	as Needed	Tank Truck	\$2.30/gallon

Payment Terms: Net 30 days from date of pickup

Shipment: 48 hours notice (or by noon Friday for Sunday and/or Monday)

Attachments: COBITCO, Inc. Terms & Conditions (reverse)

By: Douglas R. Martin, COBITCO, Inc. (Seller)

Date: 05-18-2016

I have received the above referenced attachments and agree to the Terms & Conditions:

Accepted by: Buyer, City of Grand Junction
Buyer's Signature Company

Date: 5-23-2016

GA 14Jan2009

*Excluding item #12 of the attached Cobitco "Terms and Conditions of Sale".

TERMS AND CONDITIONS OF SALE

1. **TITLE** - For asphalt products sold F.O.B. Origin, title to and risk of loss shall pass from Seller to Buyer at Seller's point of shipment as asphalt products are delivered into Buyer's delivery equipment or into contract or common carrier. For asphalt products sold F.O.B. Destination, title to and risk of loss shall pass from Seller to Buyer at the time said carrier arrives at its destination.
2. **TAXES** - The amount of any applicable governmental tax, fee or duty shall be added to the prices herein stated and shall be paid by Buyer.
3. **PRICE ESCALATION** - The above prices will be increased or decreased by an amount equal to (i) any increase or decrease in the price of asphalt, petroleum resin, polymers, emulsifiers, or raw materials utilized in the production of the commodities sold; (ii) any increase or decrease in cost of transportation; and (iii) an implementation or increase or decrease of: tax on energy use, carbon tax, emission tax, or emission credit costs.
4. **DESTINATION** - All asphalt products purchased hereunder shall be used by Buyer only at the Destination and only on the Project identified in the Contract. Buyer or its agent shall certify to Seller the destination of each shipment of asphalt products purchased hereunder at the time of shipment.
5. **LOADING** - Seller may, at its sole discretion, refuse to load transports or conveyances that are not empty or are contaminated. Contamination is defined as any product including unused quantities of the like product to be loaded, solid residue, liquid residue, water, or any other substance which seller's personnel reasonably believe may damage the product, degrade the product, or cause the product to be off specifications. The shipping papers of deliveries of material into conveyances that contain any quantity of any material may, at the seller's sole discretion, be marked "contaminated conveyance".
6. **INSPECTION** - Upon receipt of any asphalt products, BUYER shall have the right to inspect and test such products to determine whether the asphalt products satisfy any specifications communicated to Seller prior to delivery. Any rejection of defective products shall be presented to Seller by Buyer, in writing, within twenty four (24) hours after Buyer's receipt of such products, or such claim in irrevocably waived by buyer.
7. **ASPHALT RETURNS AND CHARGES** - All Asphalt products returned due to adverse weather, completion of project, ordering error, etc. will be charged a \$250.00 unloading fee. Seller at its sole discretion will decide which products may be returned. No products that were loaded into a contaminated conveyance will be accepted for return. No products that have been diluted, either by seller or by buyer will be accepted for return. Freight will be charged at the applicable tariff.
8. **PAYMENT** - Buyer agrees to make payment in accordance with the Terms of Payment. In the event Buyer fails to do so, an interest charge of 1½% per month, before and after judgment, shall be charged on the past due balance, and Seller may (1) terminate this contract with or without notice, (2) suspend deliveries until all indebtedness is paid in full, and/or (3) place Buyer on a cash-on-delivery or prepayment basis. In addition, if in the sole opinion of Seller the financial responsibility of Buyer is impaired or unsatisfactory to Seller, Seller may suspend deliveries.
9. **CREDIT TERMS** - Seller, based on its sole opinion of the financial responsibility of the Buyer, will determine credit limits and terms available to the Buyer. The Seller may adjust or cancel the Buyer's line of credit at any time. The Seller's issuance of a quotation or contract does not express or imply the availability of credit terms or credit limits to the seller.
10. **SELLER'S WARRANTIES; DISCLAIMER OF IMPLIED WARRANTIES** - Seller represents and warrants to Buyer that (i) Seller has good and valid title to the asphalt products delivered pursuant to this agreement and (ii) the asphalt products, when delivered pursuant hereto, shall comply with any specifications applicable thereto. Except as expressly set forth herein, all sales of products shall be "as is" and seller expressly negates and disclaims any and all representations and warranties, express or implied, written or oral, including without limitation, any representations of warranties of merchantability, fitness for a particular purpose or use, and conformity to models or samples or mix designs or aggregate compatibility tests. Seller does not warranty that the product specifications meet any particular end user or agency requirements. It is the Buyers responsibility to make sure the Sellers product specifications are acceptable to the end user or agency.
11. **FORCE MAJEURE** - Either party shall be relieved from liability hereunder for failure to deliver or receive product for the time and to the extent such failure is occasioned by war, fire, explosion, riot, strike or other industrial disturbance, act of God, governmental regulation, allocation of raw materials or other supplies or transportation or production facilities (where mandatory or voluntary), disruption or breakdown of production or transportation facilities, or either party's inability after reasonable diligence to obtain necessary equipment, materials or supplies, in whole or in part of at prices reasonable in relation to the price established herein, or by any other cause, whether or not similar to those listed, which is reasonably beyond the control of a party; provided, however, that any obligation of Buyer to pay any amount due hereunder shall not be excused by any such event.
12. ~~**INDEMNITY** - To the extent allowed by law, Buyer agrees to release, indemnify and hold harmless Seller from any and all claims and liability for damages to property or injury to person resulting from or in connection with Buyer's purchase, use, sale or distribution of the products sold by Seller.~~
13. **WAIVERS AND MODIFICATIONS; SAVINGS CLAUSE** - This instrument embodies the entire agreement between Seller and Buyer. There are no promises, terms, conditions or obligations other than contained herein. No variation or modification hereof shall be deemed valid unless signed by the parties hereto with the same formalities as this contract. No waiver of any breach by Seller or Buyer or any terms, conditions or obligations shall be deemed a waiver of subsequent breaches of the same of other nature. If any provision of this agreement or the application of such provision to any person or circumstance, shall be held invalid or unenforceable, the remainder of this agreement, or the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.
14. **ASSIGNABILITY** - This agreement shall extend to and be binding upon the respective parties hereto, their successors and assigns in interest provided, however, that neither party shall assign this contract or any interest herein without the prior written consent of the other, except to a successor to either of the parties hereto.
15. **GOVERNING LAW; VENUE** - This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws. Each party hereby consents to the jurisdiction of any state or federal court located in Denver, Colorado, and each party hereby waives any objection which it may have based on improper venue or *forum non conveniens* to the conduct of any proceeding hereunder and consents to the granting of such legal or equitable relief as is deemed appropriate by the court.