

RECEIVED

FEB 02 2007

PUBLIC SERVICE
COMMISSION

LP

Conformed Contract

for

**Contract F46 – Fans
Spurlock Station - Unit 4
Maysville, Kentucky**

Between

**East Kentucky Power Cooperative
Winchester, Kentucky**

And

**Howden Power
Camden, South Carolina**

September 2005



Stanley Consultants

RECEIVED

FEB 02 2007

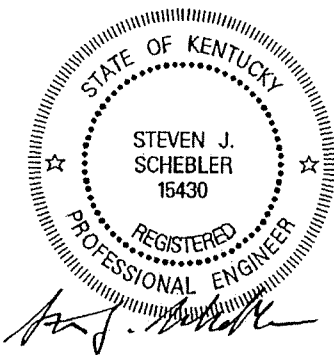
PUBLIC SERVICE
COMMISSION

Project Manual

for

**Contract F46 – Fans
Spurlock Station - Unit 4
Maysville, Kentucky**

**East Kentucky Power Cooperative
Winchester, Kentucky**



April 22, 2005



A Stanley Group Company
Engineering, Environmental and Construction Services - Worldwide

CONTRACT F46 – FANS
SPURLOCK STATION - UNIT 4
MAYSVILLE, KENTUCKY

PSC Request 1a.
Attachment No. 9
PAGE 3

EAST KENTUCKY POWER COOPERATIVE
WINCHESTER, KENTUCKY

<u>TITLE</u>	<u>PAGE</u>
Exceptions and Clarifications	
Development of Contract Price	
RUS Form 198, Equipment Contract (Rev. 2-04)	1 thru 11
RUS Form 213, Buy American Certificate (Rev. 2-04)	1
Section 00210 – Supplementary Instructions to Bidders	1 thru 3
Section 00410 – Proposal Form	1 thru 3
Section 00700 – Standard General Conditions of the Equipment Contract	1 thru 8
Certificate Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions	1 thru 2
Lobbying Certification	1
DIVISION 1 GENERAL REQUIREMENTS	
Section 01110 Summary of Work	1 thru 3
Section 01320 Progress Documentation	1 thru 2
Section 01335 Shop Drawings, Product Data, and Samples	1 thru 5
Shop Drawing Transmittal Form	1
Section 01435 Manufacturer's Field Services	1 thru 2
Section 01451 Field Quality Control	1 thru 2
Section 01460 Welding Qualifications	1
Section 01600 Product Requirements	1 thru 2
Section 01700 Execution Requirements	1 thru 2
Section 01785 Operating and Maintenance Data	1 thru 4
Operating and Maintenance Manual Cover Diagram	1
DIVISION 15 MECHANICAL	
Section 15010 Basic Mechanical Requirements	1 thru 3
Section 15830 Fans	1 thru 25
DIVISION 16 ELECTRICAL	
Section 16223 Small and Medium 3-Phase Motors	1 thru 10
Section 16225 Large Motors	1 thru 18
DRAWING LIST	1
DRAWINGS	Bound Herein and In Envelope

Exceptions and Clarifications

**Comments to:
SPURLOCK UNIT 4
EQUIPMENT CONTRACT
RUS FORM 198 (Rev.2.04)**

NOTICE AND INSTRUCTIONS TO BIDDERS

6. The Time for Delivery of the Equipment

-Line 1, replace "of the essence of the Contract" with "important"

PROPOSAL

ARTICLE II—DELIVERY AND WARRANTY

Section 1. Delivery.

-Line 5, after "fault of the Owner" insert "or Bidder"

ARTICLE III—PAYMENT

Section 1. Payments to Bidder.

b. Lines 2-4: Delete "and the Owner may withholdwith the provisions of this contract."

ARTICLE IV—PARTICULAR UNDERTAKINGS OF THE BIDDER

Section 1. Protection to Persons and Property.

-Line 2, after "the safety of" insert "its"

d. -Line 1, delete "all injuries and" and replace "project" with "Equipment"

d.(i) -Lines 3-4, replace "personal loss," with "third party bodily"

-Line 4, replace "(including but not limited to Bidder's employees) and loss," with "and"

-Line 6, delete "(including but not limited to Bidder's property)"
-Line 7, replace "Contract, or" with "negligence of Bidder during the provision of"

-Line 8, after "of any tier" insert ", except to the extent of Buyer or Owner's negligence."

-Line 9, delete "sole"

d. (ii) -Line 2, after "all liens and claims" insert "for payment"

- Line 6, after "such lien or claim" insert "for payment provided Bidder has received payment from Owner."

- Line 7, replace “by bonding, payment, or otherwise” with “for payment”
- Line 8, after “such lien or claim” insert “for payment provided Bidder has received payment from Owner”
- Lines 8-9, delete “by payment, bonding, or otherwise,”

d. (iii) -Line 3, replace “bond or” with “certificate of insurance evidencing”

Section 2. Insurance.

- b. -Lines 2, 3 and 4, replace “\$1 million” with “\$2 million;”
 - Line 5, delete “primary”
 - Lines 5-6, delete “including the umbrella or catastrophe form.”
- c. -replace “\$1 million” with “\$2 million” wherever it appears;
 - Line 5, delete “primary”
 - Lines 5-6, delete “including the umbrella or catastrophe form.”
 - Line 8, after “of this section” insert “in an annual aggregate not to exceed \$5,000,000”
 - Lines 8-10, delete “In any such event, ...to the Contract price.”
 - Line 12, delete “and ‘c’”
 - Lines 13-14, replace “and issued by such insurer as shall be satisfactory to the Owner.” with “as shall be satisfactory to owner and issued by such insurer with an AM Best Rating of A- or better.”
 - Line 15, replace “which” with “and”

ARTICLE V—REMEDIES

Section 1. Liquidated Damages.

- Line 1, replace “of the essence of the Contract.” with “utmost important.”

Create a new section to Article V., entitled “**Section 3. Limits of Liability**” and insert the following language:

Except to the extent this limitation is prohibited by law, the Seller's total liability pursuant to this Contract whether for breach of contract or by reason of any tort, statute, warranty or otherwise shall in no event exceed the Purchase Order Price.”

ARTICLE VI—MISCELLANEOUS

At the end of Article VI, insert the following language:

“Articles V and VI of the RUS Form 198 (Rev. 2-04), as well as Section 00700 Standard General Conditions for the equipment Contract, Articles 16 Limitations of Liability; and Article 3 Equipment contract Documents: Intent and Amending; and Article 5 Contractor’s responsibilities, Section 5.08 Contractor’s Warranties and Guarantees shall survive any termination, cancellation, default or dissolution of this Contract.”

**Comments to:
SPURLOCK UNIT 4
STANDARD GENERAL CONDITIONS FOR THE EQUIPMENT CONTRACT**

ARTICLE 1- DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

10. Contract Documents

-Line 7, delete "the Bonds"

ARTICLE 5- CONTRACTOR'S RESPONSIBILITIES

5.04 Section 01600 – Product requirements

1.02B delete "suitable for intended use."

5.06 Shop Drawings and Samples

C. Submittal Procedures

1.b. -Line 2, delete "intended use,"

5.08 Contractor's Warranties and Guarantees

A. -Line 3, after "other encumbrance" insert "provided Contractor has received payment therefore."

B. -Lines 3-6, replace "including any Samples approved...warranty and guarantee." with "and be of good quality for a period of: twelve (12) months from date of commercial operation or 04/01/2009 whichever is earlier."

INSERT THE FOLLOWING DISCLAIMERS AT THE END OF ARTICLE 5:

THE WARRANTIES SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTIES AND GUARANTEES (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE FOR USE FOR THE PURPOSE INTENDED) WHETHER WRITTEN OR ORAL OR IMPLIED IN FACT OR IN LAW, AND WHETHER BASED ON STATUTE, WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE OR ANY NATURE WHETHER SOLE OR CONCURRENT), OR OTHERWISE. SELLER FURTHER DISCLAIMS ANY

RESPONSIBILITY WHATSOEVER TO PURCHASER OR TO ANY OTHER PERSON FOR INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY OR VALUE CAUSED BY ANY PRODUCT THAT HAS BEEN SUBJECTED TO MISUSE, NEGLIGENCE, OR ACCIDENT; OR MISAPPLIED; OR MODIFIED OR REPAIRED BY UNAUTHORIZED PERSONS; OR IMPROPERLY INSTALLED.

ANY WARRANTY ON EQUIPMENT IS CONDITIONAL ON CORRECT ASSEMBLY AND INSTALLATION AND SHALL BE INVALID IF EQUIPMENT IS INCORRECTLY ASSEMBLED OR INSTALLED.

ARTICLE 6-SHIPPING AND DELIVERY

6.01 Shipping

Please insert after paragraph: "Freight costs will be charged at current rates at delivery dates"

6.03 Risk of Loss

-Delete this subsection in its entirety.

ARTICLE 8- OWNER'S RIGHTS

8.01 Inspections and Testing

C. Final Inspection

- Lines 3-4, replace "as intended," with "in accordance with the specifications,"

8.02 Non-Conforming Equipment or Special Services

B. Owner's Rejection of Non-Conforming Equipment

Insert after 8.02. 3: " Provided Owner provides full access to the equipment to Contractor."

D. Owner's Acceptance of Non-Conforming Equipment

-Line 4, replace "costs" with "reasonable costs and"

-Line 7, after "in Paragraph 8.02.E" insert "as mutually agreed upon by the parties."

E.

-Line 3, replace the comma (,) after "engineers" with "and/or"

-Lines 8-10, delete “and the replacement of property...of the nonconforming Equipment”

8.03 Correction Period

- A. -Line 8, replace “longer” with “earlier”
- Line 13, after “writing from the Owner” insert “, provided Owner makes the Equipment available to Contractor.”
- Line 15, after “expense” insert “incurred by Owner”

ARTICLE 10- PAYMENT

10.01 Payment

Please replace the payment terms by the following:
10% upon delivery and approval of General arrangement drawings.
25% upon proof of impeller material purchase .
55% upon equipment ready to ship
10% upon delivery and standby letter of credit of 10% Total Contract Value valid throughout warranty.

Payment shall be made to Contractor Net 30 days after issuance of an invoice.

ARTICLE 11- CANCELLATION, SUSPENSION, AND TERMINATION

11.04 Owner's Breach:

- A.
 - 2. -Line 5, replace “by Laws and Regulations” with “herein”

B. Contractor's Breach:

- 1.c. -Line 2, after “Special Services” insert “and failure to cure such discrepancy”
- 2. -Line 5, replace “by Laws and Regulations” with “herein”

ARTICLE 12- LICENSES AND FEES

12.02 Contractor's Infringement

- A. -Lines 3-4, delete “agents, consultants, contractors, and subcontractors”
- Line 5, after “limited to all” insert “reasonable”
- Line 10, after “delivered hereunder” insert “, provided Contractor shall have control of the defense thereof.”
- C. -Line 4, after “to bear all” insert “its”

14.04 Cumulative Remedies

-Line 10, after "they apply" insert "including, but not limited to, Articles 15 and 16."

ARTICLE 15-WARRANTY

15.02 -Line 1, after "This warranty is" insert "exclusively and"

-Line 3, after "and fitness" insert "for purpose for the use intended, whether written or oral or implied in fact or in law and whether based on statute, warranty, contract, tort, or otherwise."

15.04 -Line 1, replace "The states" with "This states"

ARTICLE 16- LIMITATION OF LIABILITY

16.01 -Line 2, after "in contract" insert ", warranty"

Insert 16.02 as follows:

"The limitations set forth in this Article 16 as well as Article 15 and Article 5 shall apply even in the event of Contractor's negligence, be exclusive, and be applicable to any remedies available to Owner in paragraph 14.04."

At the end of this article, insert the following language:

"Articles V and VI of the RUS Form 198 (Rev. 2-04), as well as Section 00700 Standard General Conditions for the equipment Contract, Articles 16 Limitations of Liability; and Article 3 Equipment contract Documents: Intent and Amending; and Article 5 Contractor's responsibilities, Section 5.08 Contractor's Warranties and Guarantees shall survive any termination, cancellation, default or dissolution of this contract."



**Stanley Consultants
Contract F46 - Fans
Howden Power Quotation C 10447RevC**

PSC Request 1a.
Attachment No. 9
PAGE 12

All changes included in revC are in *bold italic*.

Comments and Exceptions

Section 15830

1.01 A2 We are offering Inlet silencer to fan outlet flange (PA and SA) and inlet flange to outlet flange (ID). No ducting or evases are included in Howden's scope.

A9 Weather enclosure for lube system is included as an adder (not included in our previous job for Gilbert #3).

A11 Vibration probes are not included, our bearings have provisions only as per your spec page 9 item 2.14 D.

1.02 J No outlet screens are included

K Please replace the language to be as: "The rotor assembly shall be designed so that its resonant speed shall not be less than 1.15 times the maximum operating speed. The lowest critical speed shall not be less than 1.25 times the maximum operating speed."

L We take exception to this paragraph.

1.03 C2 We take exception to this paragraph. (Shop performance tests are not viable for this size fans).

1.04 G We are not offering any austenitic SS in our scope.

2.03 B We are not including any chrome plating or ceramic coating of shaft at seals.
We are offering the same seals as supplied for Gilbert #3.

2.04 C No life prediction is possible for sleeve bearings.

D Thrust collars will not be babbited. The bearings will have babited thrust faces.

H.2. Bearing seals will not be labyrinth type. Bearings seals match those provided for unit3.

2.04K (We are removing the note, 1.5 service factor is accepted).

2.07 D Vane bearings are not self aligning.

G No dampers are included in Howden's scope. Our fans are provided with Variable Inlet Vanes (As provided for Gilbert #3).

2.09 B/C Silencers must be supported by others. Our scope includes for flexible joints.



1 Jul 2005



~~2.10 B1 Multi-point, self averaging Pitot transverse station is included for the PA and SA fans. It is not included for the ID fan. (This reflects the supplied in the unit 3).~~

~~2.10 B2 No honeycomb air straightener is included in our scope of supply.~~

~~(We keep this exception: Howden did not supply this device in the unit 3 and we do not see the need for this. The transverse pitot tube is placed at a position 2/3 of the length inside the silencer baffles. This is typical design for PA and SA fans).~~ (i)

2.11 A-E No baseplates are included in our scope of supply.

2.12 Lube unit comments:

TECHNICAL EXCEPTIONS AND CLARIFICATION:

(1) NO NON-DESTRUCTIVE EMANATION, RADIOGRAPHIC OR LP OF WELDS IS INCLUDED.

(2) LUBE UNIT IS PROVIDED AS A COMPLETE UNIT WITH INSTRUMENTATION WIRED TO LOW VOLTAGE TERMINAL BLOCKS IN A NEMA 4X SS JUNCTION BOX.
NO PLC SOLID STATE OR RELAY LOGIC IS INCLUDED & NO LOGIC CONTROL DRAWINGS ARE INCLUDED

(3) A SECOND NEMA JUNCTION BOX IS PROVIDED WITH A HEATER CONTACTOR WIRED TO THERMOSTAT AND HEATER WITH LIGHT & SELECTOR SWITCH. COOLER MOTORS & PUMP MOTORS ARE WIRED TO TERMINAL BLOCKS BUT NO MOTOR STARTERS ARE INCLUDED.

(4) WEATHER PROTECTED ENCLOSURE IS QUOTED AS AN ADDER AND NOT INCLUDED IN BASE BID.

(5) NO PIPE INSULATION IS INCLUDED BUT WE RECOMMEND HEAT TRACING TO BE INSTALLED BY OTHERS.

(6) INTERCONNECTION PIPE, VALVES, SIGHT GLASSES, FITTINGS AND MISC. ARE INCLUDED IN THIS REVISION C AND WE ARE KEEPING OUR STATED PRICE IN THE REVISION A.

(7) MOTOR IS RATED FOR 40°C TEMP. @ 1.15 SF AND RATED FOR 50°C @ 1.0 SF

2.13 B Enclosure for lube unit is offered as an option.

General note: The lube unit as your specification is not interchangeable with the one provided for Gilbert #3.

2.14 D1 Our scope does not include any vibration probes. Our proposal includes provisions only.

2.15 A3 No AMCA Certified rating seal will be provided.

2.17 C (Accepted: We remove our request for change).

2.17 D We take exception to this item: No AMCA test or certification is included.

2.17 E Please replace paragraph to be as follows: "After equipment is put into service, the Owner may test the equipment to ascertain the fan is performing properly in as per specification every respect. The Contractor shall, when requested, arrange to

(1) Neto Valle e-mail July 4, 2005



have an authorized representative present to witness and assist in the test. ~~Visit to be charged as per Howden's standard rate sheet.~~ ⁽¹⁾

2.17 F Please replace paragraph to be as follows: "Field test of the fans shall be in accordance with AMCA 803 Performance Test"

2.17 G Please replace paragraph to be as follows: "Capacity and pressure requirements at the guarantee conditions shall be met. No adjustment shall be made for inlet or outlet configurations of the fan terminal flanges"

2.17 H-J Please delete, we take exception to these clauses.

Section 16223

Not applicable – No motors 50-350 HP are in the scope.

Section 01460

Static parts are welded per AWS D1.1

Section 15010

1.05 No seismic design calculation or reports are included.

Section 01785

(Accepted: We remove our request for exception taken to this section).

Section 01335

Page 3 Please delete item 13. (We keep this exception: Howden does not have a professional engineer registered in the state of KY to certify our drawings).

1.07 Document submittal schedule (Accepted: We remove our request for exception).

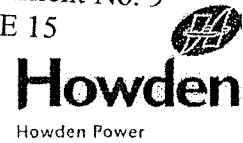
Motor

~~Megger test: Our recommendations are defined in our instruction manuals, in fact, R (megohm) = $3x(1+U \text{ en kV})$. Concerning the paragraph 1.06.D, who would do the measures? We think that the storage conditions should be under the buyers responsibility as well as the winding resistance measurement. Please, confirm.~~ ⁽²⁾

§ 2.01: "acceptable manufacturers": Our vendors' motors were never manufactured in Rugby, UK. Only the 7245 kW Motor (ID Fan) was tested in this facility because the Champigneulle plant in France did not permit to achieve a

(1) Meeting July 7, 2005 - Howden and EKPC

(2) Neto Valle e-mail July 20, 2005



1.15 Pn. We would need a derogation or an authorization to manufacture all the machines in France. Also, as the spares motors were tested with load, a new on load testing is not necessary since the motors would be identical. Please, let us know how we should proceed in order to deviate this paragraph.

§ 2.04.D: Motors would be designed with one (1) direction of rotation. ⁽¹⁾

General

~~This proposal includes for three trips to site as detailed in section 9 of this proposal RevC. Any other service package / daily rates will be charged per our std. rate sheet. (As sent in our proposal RevA).~~ ^(1, 2)

⁽¹⁾ Neto Valle e-mail July 4, 2005

⁽²⁾ See Development of Contract Price

REDACTED

Development of Contract Price

- 1. Base Price (per Rev. C., July 1, 2005): [REDACTED]

- 2. Air Monitor Corporation Air Flow Measurement System
(Neto Valle e-mail July 4, 2005):
 - A. SA Fan: [REDACTED]
 - B. PA Fan: [REDACTED]
 - Subtotal [REDACTED]

- 3. Field Services (Neto Valle e-mail July 20, 2005):
 - A. Trip 1 - Pre-Installation (10 days): [REDACTED]
 - B. Trip 2 - Install/erect PA Fan (5 days): [REDACTED]
 - C. Trip 3 - Install/erect SA Fan (5 days): [REDACTED]
 - D. Trip 4 - Install/erect ID Fan (5 days): [REDACTED]
 - E. Trip 5 - Startup Fans (15 days): [REDACTED]
 - Subtotal [REDACTED]
 - F. Additional Field Services: Per Howden rate sheet.

- 4. Total Contract Price (Sum of 1, 2, and 3): [REDACTED]

Howden Buffalo Inc
Parts and Service



FIELD SERVICE RATES – U.S.

American Blower ®	American Davidson®	American Standard®	Buffalo Forge®	Green Fan®
Gyrol Fluid Drives ®	Howden Fan®	New Philadelphia Fan®	Novenco®	Sheldon®
Sirocco®	Sturtevant®	Tellus®	Variax®	Westinghouse®

fans fluid drives inspections field repairs fan balancing site supervision project management design services start up installation supervision

DESCRIPTION OF SERVICE

TECHNICAL ADVISOR – these field representatives provide technical direction and advice to facilitate customers with erection, installation, start-up, commissioning, inspection and/or trouble shooting.
FIELD ERECTION/INSTALLATION SUPERVISOR – in addition to the above, these representatives provide specific project support to assist in scheduling and/or selecting/supervising manpower and/or direct supervision throughout established phases of project completion.
FIELD ENGINEER – provides engineering support to perform equipment analysis as well as diagnose unusual field conditions including but not limited to performance testing, vibration analysis and fan application/system troubleshooting.

The following daily rates apply to service performed/ordered from the **United States**:

SERVICE AND TRAVEL RATES (US \$)

- **Base Rate** – Is defined as an 8 hour service and/or travel day Monday through Friday. The **Base Rate** for a Technical Advisor is \$880 per day, for a Field Erection/Installation Supervisor - \$1200 per day and a Field Engineer - \$1200 per day.
- Minimum daily charge is 8 hours.
- Travel hours include portal to portal and daily travel to and from the jobsite.
- Travel hours will be billed at the **Base Rate** except 2 x **Base Rate** on nationally recognized or Howden Buffalo Inc. observed holidays.
- Service time in excess of 8 hours Monday through Friday and all day Saturday will be billed at 1½ x **Base Rate**.
- Service on Sundays and observed Howden Buffalo Inc Holidays will be billed at 2 x **Base Rate**.
- Layover days will be charged at the **Base Rate**.
standby service time, training, meetings, etc are considered normal work hours and are billed at the appropriate service rates whether performed on or off site.
- Documentation and report preparation time will be billed at the **Base Rate**.

EXPENSES (US \$)

- Travel, living expenses and supplies will be billed at cost.
- Meals and incidentals will be billed at \$75/day. No receipts will be furnished.
- Use of private vehicles will be charged at \$0.50/mile.
- All expenses will be assessed a 10% administration fee.

AGREEMENT

The term “Field Service” as defined above under DESCRIPTION OF SERVICE is outlined as technical assistance, advice, testing and/or supervision. It is the Customer’s responsibility, unless otherwise agreed, to furnish fully qualified labor, equipment, tools, materials and supplies for the work being performed.

Howden Buffalo Inc. policy requires payment for Service contracts/orders less than \$5,000.00 by credit card. A credit card authorization form will be forwarded/completed, as applicable. The party issuing the order/purchase order (“Customer”) for Field Service agrees that, unless otherwise expressly agreed in writing by Howden Buffalo Inc, all Services performed by Howden Buffalo Inc. in connection with this transaction shall be deemed to be based solely upon the terms and conditions contained herein and as referenced. Any order/purchase order issued by the Customer shall be for record and invoicing purposes only and any and all terms and conditions of such order/purchase order are expressly denied by Howden Buffalo, Inc. This form and Howden Buffalo Inc.’s Standard Terms and Conditions of Sale (attached), is hereby incorporated by reference herein, constitute the entire agreement between the parties (“Agreement”).

In order to schedule a Field Service Representative to your site, your acknowledgement requesting the dispatch of a Representative and a copy of an approved purchase order/credit card order is required. Please sign and date below to indicate that you are requesting and authorizing the dispatch of a Field Service Representative to provide technical assistance and that you accept this Field Service Agreement. Please return this signed acknowledgement and a copy of the purchase order/credit card order to Howden Buffalo Inc.

Accepted by: _____ Company: _____
(print name) (Customer)

Signed: _____ Date: _____

P. i : _____

U.S. Department of Agriculture
Rural Utilities Service

PSC Request 1a.
Attachment No. 9
PAGE 18

EQUIPMENT CONTRACT

NOTICE AND INSTRUCTIONS TO BIDDERS

1. **Sealed proposals for the furnishing and delivering of** plant site near Maysville, Kentucky

known as Spurlock Unit 4
of equipment for the rural electric project of East Kentucky Power Cooperative,
RUS designation Kentucky 59 Fayette, (hereinafter called the "Owner") will be received by the Owner on or
before 4.00 o'clock P.M., May 16, 2005, at its office
at P.O. Box 0707, 4775 Lexington Rd, Winchester, KY 40392-0707 at which time and place the proposals will be
publicly opened and read.

X privately opened. The Owner, subsequent to the bid opening, may elect to conduct clarifying discussions with the bidder to resolve any questions related to the substance of the bidder's proposal and to arrive at a final price for a responsive bid

Any proposals received subsequent to the time specified will be promptly returned to the Bidder unopened.

2. **Obtaining Documents.** The Plans, Specifications, and Construction Drawings, together with all necessary forms and other documents for bidders may be obtained from the Owner, ~~or from the Engineer~~ _____
_____ at the latter's office at P.O. Box 0707, 4775 Lexington Rd, Winchester, KY 40392-0707
upon the payment of \$0.00, which payment will not be subject to refund. The Plans, Specifications, and Construction Drawings may be examined at the office of the Owner or at the office of the Engineer.

3. **Manner of Submitting Proposals.** ~~Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be completed in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated. The successful Bidder will be required to execute two additional counterparts of the Proposal. See Section 00210-Supplementary Instructions to Bidders.~~
4. **Due Diligence.** Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have made a careful examination of the Plans, Specifications, Construction Drawings, and form of Proposal, and shall review the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the project, general local conditions, environmental and historic preservation considerations and all other matters that may affect the cost and time of completion of the work. Bidder will be required to comply with all federal, state, and local laws, rules, and regulations applicable to its performance, including those pertaining to the licensing of contractors, and the Anti Kick-Back Act of 1986 (41 U.S.C. 51 et seq).

5. **Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.**
6. **The Time for Delivery of the Equipment is of the essence of the Contract** ^{important⁽¹⁾} and shall be as specified by the Engineer in the Proposal.

⁽¹⁾ See Exceptions and Clarifications

7. **Evaluation Factors.** In estimating the lowest cost to the Owner as one of the factors in deciding the award of the Contract, the Owner will consider, in addition to the price quoted in the Proposals, the following:

Compliance with Bid Documents

8. **Debarment Certification.** The Bidder must provide to the Owner a suspension and debarment certificate in the form attached hereto

9. **Contract is Entire Agreement.** The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modifications thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person

10. **Minor Irregularities.** The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.

11. **Bid Rejection.** The Owner reserves the right to reject any or all Proposals

12. **Definition of Terms.** The terms "Administrator" and "Engineer" as used throughout this Contract shall be as defined in Article VI, Section 1, of the Proposal

East Kentucky Power Cooperative
Owner

By Randy J. [Signature]

Vice President, Production
Title

April 22, 2005
Date

PROPOSAL

PSC Request 1a.
Attachment No. 9
PAGE 20

TO:

East Kentucky Power Cooperative, Winchester, Kentucky

(hereinafter called the "Owner").

ARTICLE I--GENERAL

Section 1. Offer to Furnish and Deliver. *The undersigned (hereinafter called the "Bidder") hereby proposes to furnish and deliver the equipment (hereinafter called the "Equipment") described in the Plans, Specifications, and Construction Drawings for the following prices: shown on attached Section 00410-Proposal Form.*

Item: Contract F46 - Fans Price: _____

Item: _____ Price: _____

The prices of Equipment set forth herein shall include the cost of delivery to:

plant site near Maysville, Kentucky

The prices set forth herein do not include any sums which are or may be payable by the Bidder on account of taxes imposed by any taxing authority upon the sale, purchase or use of the Equipment. If any such tax is applicable to the sale, purchase or use of the Equipment hereunder, the amount thereof shall be added to the purchase price and paid by the Owner.

Section 2. Materials and Equipment. *The Bidder agrees to furnish and use in the construction of the project under this Proposal, in the event the Proposal is accepted, only such "fully accepted," "conditionally accepted," and "technically accepted" materials and equipment which have been accepted by RUS as indicated in the current RUS Informational Publication 202-1, "List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers," including revisions adopted prior to the Bid Opening. The use of "conditionally accepted" or "technically accepted" materials and equipment requires prior consent by the Owner or Engineer.*

The Bidder will purchase all materials and equipment outright and not subject to any conditional sales agreements, bailment, lease or other agreement reserving unto the seller any right, title or interest therein. All such materials and equipment shall be new.

Section 3. Description of Contract. *The Notice and Instructions to Bidders, Plans, Specifications, and Construction Drawings, which by this reference are incorporated herein, together with the Proposal and Acceptance constitute the Contract. The Plans, Specifications, and Construction Drawings, including maps, special drawings, and approved modifications in standard specifications are attached hereto and identified as follows:*

Project Manual for Contract F46- Fans

Section 4. Due Diligence. *The Bidder has made a careful examination of the Plans, Specifications, and Construction Drawings attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be*

- b. ~~No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract, and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.~~⁽¹⁾

ARTICLE IV--PARTICULAR UNDERTAKINGS OF THE BIDDER

The provisions of this Article IV apply to any work performed by the Bidder at the project site.

Section I. Protection to ^{its}(1) Persons and Property. The Bidder shall at all times take all reasonable precautions for the safety of employees on the project and of the public, and shall comply with all applicable provisions of federal, state, and local laws, rules, and regulations and building and construction codes, in addition to the safety rules and procedures of the Owner.

The following provisions shall not limit the generality of the above requirements:

- a. The Bidder shall at no time and under no circumstances cause or permit any employee of the Bidder to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in the Notice and Instructions to Bidders.
- b. The Bidder shall transport and store all material in facilities and vehicles which are designed to protect the material from damage. The Bidder shall ensure that all vehicles, trailers, and other equipment used comply with all applicable licensing, traffic, and highway requirements.
- c. The Bidder shall conduct its operations to cause the least possible obstruction of public highways.
- d. The Bidder shall make good and fully repair ~~all injuries and damages to the project~~⁽¹⁾ or any portion thereof under the control of the Bidder by reason of any act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence.
- (i) ~~To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property)~~⁽¹⁾ in any manner arising out of or connected with the ~~Contract~~⁽¹⁾ or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the ~~sole~~⁽¹⁾ negligence of Owner, ~~except to the extent of Buyer or Owner's negligence~~⁽¹⁾.
- (ii) ~~To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise~~⁽¹⁾, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder. ~~for payment provided Bidder has received payment from Owner~~⁽¹⁾.
- (iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a ~~bond or liability insurance policy~~⁽¹⁾ obtained for this purpose through a licensed surety or insurance company. ~~certificate of insurance evidencing~~⁽¹⁾

⁽¹⁾ See Exceptions and Clarifications

- e. Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense. Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

Section 2. Insurance. The Bidder shall take out and maintain throughout the period of its operations at the project site the following types and minimum amounts of insurance:

- a. Workers' compensation and employers' liability insurance, as required by law, covering all its employees who perform any of the obligations of the Bidder under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.
- b. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than \$1 million each occurrence, limits for property damage of not less than \$1 million each occurrence, and \$1 million aggregate for accidents during the policy period. A single limit of \$1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, ~~primary and excess including the umbrella or catastrophe form.~~⁽¹⁾
- c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned or hired, shall have limits for bodily injury or death of not less than \$1 million per person and \$1 million each occurrence, and property damage limits of \$1 million for each occurrence. A single limit of \$1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, ~~primary and excess including the umbrella or catastrophe form.~~⁽¹⁾

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection "b" and "c" of this Section. ~~In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.~~⁽¹⁾ **in an annual aggregate not to exceed \$5,000,000**

The Owner shall be named as Additional Insured on all policies of insurance required in subsections "b" and "c" of this Section. ~~as shall be satisfactory to Owner and issued by such insurer with an AM Best rating of A- or better.~~⁽¹⁾

The policies of insurance shall be in such form and ~~issued by such insurer as shall be satisfactory to the Owner.~~ The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements ~~which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.~~⁽¹⁾ ~~and~~⁽¹⁾

ARTICLE V--REMEDIES

Section 1. Liquidated Damages. The time of the delivery of the Equipment is ~~of the essence of the Contract.~~⁽¹⁾ ~~Should the Bidder neglect, refuse or fail to deliver the Equipment within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due, or which may become due and payable to the Bidder the sum of Five thousand dollars (\$5000.00) per day for each and every day that such delivery is delayed beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full. Provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.~~⁽¹⁾ **not to exceed 10% of the Contract Price.**

⁽¹⁾ See Exceptions and Clarifications
RUS FORM 198 (Rev. 2-04)

Section 2. Cumulative Remedies. *Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election. Provided, however, that the provisions of Section 1 of this Article shall be the exclusive measure of damages for failure by the Bidder to deliver the Equipment within the time herein agreed upon.*

Section 3. Limits of Liability. *Except to the extent this limitation is prohibited by law, the Seller's total liability pursuant to this Contract whether for breach of contract or by reason of any tort, statute, warranty or otherwise shall in no event exceed the Purchase Order Price.⁽¹⁾*

ARTICLE VI--MISCELLANEOUS

Section 1. Definitions.

- a. *The term "Administrator" shall mean the Administrator of the Rural Utilities Service of the United States of America and his or her duly authorized representative or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.*
- b. *The term "Engineer" shall mean the Engineer employed by the Owner, to provide engineering services for the project and said Engineer's duly authorized assistants and representatives.*

Section 2. Materials and Supplies. *In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States or in any eligible country; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. For the purposes of this section, an "eligible country" is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and suppliers to the markets of that country, as determined by the United States Trade Representative. The Bidder agrees to submit to the Owner such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.*

Section 3. Patent Infringement. *The Bidder shall hold harmless and indemnify the Owner ^{and Engineer} from any and all claims, suits and proceedings for the infringement of any patent or patents covering Equipment purchased hereunder.*

Section 4. Compliance with Laws. *The Bidder shall comply with all federal, state, and local laws, rules, and regulations applicable to its performance under the contract and the construction of the project. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the Anti Kick-Back Act of 1986 (41 U.S.C. 51 et seq), and 18 U.S.C. §§ 286, 287, 641, 661, 874, 1001, and 1366, as amended.*

The Bidder represents that to the extent required by Executive Orders 12549 (3 CFR, 1985-1988 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), Debarment and Suspension, and 7 CFR part 3017, it has submitted to the Owner a duly executed certification in the form prescribed in 7 CFR part 3017.

The Bidder represents that, to the extent required, it has complied with the requirements of Pub. L. 101-121, Section 319, 103 Stat. 701, 750-765 (31 U.S.C. 1352), entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and any rules and regulations issued pursuant thereto.

⁽¹⁾ See Exceptions and Clarifications

Section 5. Equal Opportunity Provisions.

a. Bidder's Representations.

The Bidder represents that:

It has X , does not have , 100 or more employees, and if it has, that it has X , has not , furnished the Equal Employment Opportunity-Employers Information Report EEO-1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 of September 24, 1965, and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than \$10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than \$10,000, the Bidder will file such report, as required by law, and notify the owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

- (1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.*
- (2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.*
- (3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*
- (4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.*
- (5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.*
- (6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965,*

and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) *The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, that in the event Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.*

(8) *See Section 00700 - Standard General Conditions of the Equipment Contract, Article 5.03B*

c. *Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.*

Section 9. Successors and Assigns. *Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto. The Owner and Bidder acknowledge that this Contract is assigned to the Government, acting through the Administrator, for security purposes under the Owner's mortgage and security instrument.*

Section 10. Independent Contractor. *The Bidder shall perform the work as an independent contractor, not as a subcontractor, agent, or employee of the Owner. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.*

Articles V and VI of the RUS Form 198 (Rev. 2-04), as well as Section 00700 Standard General Conditions for the equipment Contract, Articles 16 Limitations of Liability; and Article 3 Equipment contract Documents: Intent and Amending; and Article 5 Contractor's responsibilities, Section 5.08 Contractor's Warranties and Guarantees shall survive any termination, cancellation, default or dissolution of this Contract.⁽¹⁾

⁽¹⁾ See Exceptions and Clarifications

Section 11. Approval by the Administrator: This contract does X, does not , require approval of the Administrator. No acceptance of a Proposal for a contract upon which approval of the Administrator is required shall become effective until the contract has been approved by the Administrator; provided that no obligation shall arise hereunder unless such approval is given within one-hundred twenty (120) days after the date set for the opening of the proposals. The acceptance of a Proposal for a contract upon which approval of the Administrator is not required shall become effective the date of acceptance by the Owner.

REFERENCE HPNA QUOTE
C 10447 DATED MAY 16, 2005
HOWDEN BUFFALO INC

Bidder

N. A. Aquilini
President
VP SALES & MKTG (DIRECTOR)
2029 W. DE KALB ST
Address
CAMDEN SC 29020

ATTEST:

Secretary

Dated _____

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

Rosemary St. Louis
Notary Public

MY COMM. EXPIRES 8-30-2010

REDACTED

ACCEPTANCE

Subject to the approval of the Administrator, if approval of the Administrator is required, the Owner hereby accepts the foregoing Proposal of the Bidder, Howden Power

for the following Equipment:

Fans for Spurlock #

for a total contract price of [REDACTED] dollars.)

East Kentucky Power Cooperative, Inc.
Owner

By Roy M. Falk
President

Nella E. Dawson, Esq.
Secretary
behalf of the Corporate Secretary

August 9, 2005
Date of Contract

U.S. Department of Agriculture
Rural Utilities Service

PSC Request 1a.
Attachment No. 9
PAGE 29

**BUY AMERICAN
CERTIFICATE**

With respect to compliance with the second paragraph of the Rural Electrification Act of 1938, being Title IV of the Work Relief and Public Works Appropriation Act of 1938 (Public Resolution No. 122, 75th Congress, approved June 21, 1938).

Rural Utilities Service Project Spurlock Station – Unit 4

The undersigned, being, the Contractor ¹

in a certain contract No. F46– Fans dated _____, _____, between the undersigned

²and East Kentucky Power Cooperative, Inc.

does hereby certify that in the performance of the said contract there have been used or furnished no unmanufactured articles, materials or supplies which have not been mined or produced in the United States³ or in any eligible country and no manufactured articles, materials or supplies which have not been manufactured in the United States or in any eligible country substantially all from articles, materials or supplies mined, produced or manufactured, as the case may be, in the United States or in any eligible country, except to the extent that compliance with the second paragraph of the Rural Electrification Act of 1938, being Title IV of the Work Relief and Public Works Appropriation Act of 1938 (Public Resolution No. 122, 75th Congress, approved June 21, 1938) has been waived by the Administrator of the Rural Utilities Service. For purposes of this certificate, an "eligible country" is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and suppliers to the markets of that country, as determined by the United States Trade Representative.⁴

HOWDEN BUFFALO INC.
By N.O. Alzheim
VP SALES & MKTG (DIRECTOR)

Date MAY 23, 2005

¹ Insert "Contractor," "Subcontractor," "Seller," Or "Material Supplier," as the case may be

² Insert the name of the RUS Borrower.

³ United States means United States, its territories and possessions.

⁴ A current list of eligible countries may be obtained by contacting RUS.

1.01 EXAMINATION OF BIDDING DOCUMENTS AND POINT OF DESTINATION

- A. Upon request, Purchaser will provide Bidder access to the Point of Destination to conduct such investigations, examinations, tests and studies as Bidder deems necessary for submission of a Bid.
- B. It is the responsibility of each Bidder before submitting a Proposal to:
 - 1. Examine and carefully study the Bidding Documents, including any Addenda and the related data identified in the Bidding Documents.
 - 2. If specified, or if, in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Equipment and Special Services, visit the Point of Destination to become familiar with the local conditions.
 - 3. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or the furnishing of Equipment and Special Services.
 - 4. Carefully study and correlate the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination, with the Bidding Documents.
 - 5. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
 - 6. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Equipment and Special Services.
- C. Submission of a Proposal will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Proposal is premised upon furnishing Equipment and Special Services required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Equipment and Special Services.

1.02 INTERPRETATIONS

- A. Questions about the meaning or intent of the Bidding Documents shall be submitted to Engineer in writing.
- B. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents
- C. Questions received less than 5 days prior to the date for opening of Proposals will not be answered. Only answers in the Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- D. Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Purchaser or Engineer.
- E. Owner will not consider requests for time extensions of the bidding period.

1.03 "OR-EQUAL" ITEMS

- A. The Contract, if awarded, will be on the basis of material and equipment specified or described in the Bidding Documents without consideration of possible "or-equal" items. Whenever it is specified or described in the Bidding Documents that an "or-equal" item of material or equipment may be furnished or used by Seller if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submittal of any such application by Seller and consideration by Engineer is set forth in the General Conditions and may be supplemented in the General Requirements.

1.04 SUBMITTAL OF PROPOSALS

- A. Each prospective Bidder is furnished one copy of the Bidding Documents. Proposal Form is to be completed and submitted.
- B. Original Proposal signed in blue ink, Proposal, and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner at the following address:

East Kentucky Power Cooperative, Inc.
Attention: Mr. Craig Johnson
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707
Telephone: 859.744.4812
Fax: 859.744.6008
E-mail: craig.johnson@ekpc.coop

- C. One duplicate copy of Proposal and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner at the following address:

East Kentucky Power Cooperative
Attention: Ms. Diana Pulliam
P. O. Box 398, Route 8 West
Maysville, Kentucky 41056
Telephone: 606.883.3367
Fax: 606.883.3438
E-mail: diana.pulliam@ekpc.coop

- D. Two duplicate copies of the Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Engineer at the following address:

Stanley Consultants, Inc.
Attention: Mr. Larry Shell
225 Iowa Avenue
Muscatine, IA 52761
Telephone: 563.264.6455
Fax: 563.264.6658
E-mail: shelllarry@stanleygroup.com

- E. The name and address of the Bidder and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewriter. No alterations or interlineations will be permitted, unless made before submission and initialed and dated
- F. Proposal shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Proposal Form.
- G. Facsimile copies of Proposals will not be accepted.

1.05 BASIS OF BID; COMPARISON OF BIDS

- A. Single Lump Sum:
 - 1. Bidder shall submit a Proposal on a lump sum basis as set forth in the Proposal Form.
 - 2. For determination of the apparent low Bidder, Proposals will be compared on the basis of the lump sum.

3. Discrepancies between words and figures will be resolved in favor of words.

PSC Request 1a.
Attachment No. 9
PAGE 32

B. Unit prices:

1. For each unit price item on the Proposal Form, Bidder shall enter the unit price Bid, and shall enter the computation of the respective quantity times the Bidder's unit price for that item. Bidder shall compute and enter in the space provided on the Proposal Form, the total of the products of quantity and unit price Proposal for each unit price item.
2. For determination of the apparent low Bidder, Proposals will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Proposal for that item.
3. Discrepancies between the indicated result of the multiplication of the units of an item and the unit price for that item will be resolved in favor of the arithmetically correct result. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the arithmetically correct sum. Discrepancies between words and figures will be resolved in favor of the words.

1.06 MODIFICATION OR WITHDRAWAL OF BID

- A. Proposal may be modified or withdrawn by a document executed in the manner that a Proposal must be executed, and delivered to the place where Proposals are to be submitted prior to the date and time for the opening of Proposals.
- B. If, within 24 hours after Proposals are opened, any Bidder files a signed written notice with Purchaser and promptly thereafter demonstrates to the reasonable satisfaction of Purchaser that there was a material and substantial mistake in the preparation of its Bid, it may withdraw its Bid, and its Proposal security will be returned. Thereafter, if the Equipment and Special Services are rebid, that Bidder will be disqualified from further bidding on the Equipment and Special Services to be furnished under the Contract Documents.

END OF SECTION 00210

17500.03.00
ms452

PROPOSAL FORM
SECTION 00410 - Page 1

PROJECT AND CONTRACT IDENTIFICATION

This Proposal pertains to Contract F46 –Fans for the Spurlock Station Unit 4 Project, for East Kentucky Power Cooperative, Inc.

Article 1. BID RECIPIENT

- 1.1 This Proposal is submitted to: East Kentucky Power Cooperative, Inc.
Attn: Mr. Craig Johnson
P. O. Box 0707
4475 Lexington Road
Winchester, KY 40392-0707
- 1.2 The undersigned Bidder proposes and agrees, if this Proposal is accepted, to enter into a Contract with Purchaser in the form included in the Bidding Documents to furnish the Equipment and Special Services as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Proposal and in accordance with the other terms and conditions of the Bidding Documents.

Article 2. BIDDER'S ACKNOWLEDGMENTS

- 2.1 Bidder accepts all of the terms and conditions of the Notice and Instructions to Bidders, including without limitation those dealing with the disposition of Proposal security. The Proposal will remain subject to acceptance for 90 days after the Proposal opening, or for such longer period of time that Bidder may agree to in writing upon request of Purchaser.
- 2.2 Bidder accepts the provisions of the Equipment Contract as to liquidated damages in the event of its failure to furnish the Equipment and Special Services in accordance with the schedule set forth in the Equipment Contract.

Article 3. BIDDER'S REPRESENTATIONS

- 3.1 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:
 - 3.1.1 Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged.

Addendum No.	Addendum Date
<u>N/A</u>	<u>N/A</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- 3.1.2 If specified, or if in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Equipment and Special Services, Bidder has visited the Point of Destination and become familiar with and is satisfied as to the local conditions that may affect cost, progress, or the furnishing of Equipment and Special Services.
- 3.1.3 Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and the furnishing of Equipment and Special Services.
- 3.1.4 Bidder has carefully studied and correlated the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination with the Bidding Documents.

17500.03.00
ms452

PROPOSAL FORM
SECTION 00410 - Page 2

- 3.1.5 Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- 3.1.6 Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Equipment and Special Services for which this Proposal is submitted.
- 3.1.7 Bidder further represents that this Proposal is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Purchaser.

Article 4. BASIS OF BID

4.1 Bidder will furnish the Equipment and Special Services in accordance with the Contract Documents for the following price(s):

4.1.1 Lump Sum Base Bid Proposal Price:

~~Two million, five hundred and nineteen thousand~~
(words)
~~and five hundred seventy six dollars (\$ 2,519,576.65~~
(figures)
~~and sixty five cents~~

Price includes services of Service Engineer for $\emptyset^{(1)}$ working days and $\emptyset^{(1)}$ round trips to Site.

4.1.2 Unit Adjustment Prices: Required Base Proposal quantities of the items listed below are set forth in the Specifications. If increases or decreases in these quantities occur, the Contract Price is to be adjusted by Change Order on the basis of the following. Adjustment prices are subject to acceptance by Purchaser, and rejection of one or more adjustment prices will not invalidate acceptance of this Bid.

Item	Unit	Price
Site services of Service Engineer	per day	\$ see our rate sheet
Transportation, travel time, and out-of-pocket expenses for travel of Service Engineer to Site	per round trip	\$ see our rate sheet

Article 5. TIME OF COMPLETION

- 5.1 Bidder agrees that the furnishing of Equipment and Special Services will conform to the schedule set forth in Equipment Contract.
- 5.1 Equipment is scheduled for operation during the month of April 2008.

Article 6. ATTACHMENTS TO THIS BID

- 6.1 The following documents are attached to and made a condition of this Bid:
 - 6.1.1 Exceptions and Clarifications: Attach a separate sealed envelope labeled "Exceptions and Clarifications" to outside of sealed Bid, containing listing on Bidder's letterhead of all exceptions and clarifications to Contract Documents, referencing page number and paragraph of Contract

⁽¹⁾ See Development of Contract Price

Documents involved. If there are no exceptions or clarifications, include statement to such effect in Proposal envelope. Excessive exceptions or clarifications may render Proposal unresponsive. Bidder agrees to all provisions contained in Contract Documents unless specifically listed as an exception or clarification. If Bidder submits drawings, printed forms, standard statements, or other revisions which conflict with Contract Documents, the Contract Documents will prevail.

6.1.2 Data requested in Section 01335, Document Submittal Schedule.

6.1.3 Fans:

- a. Completed Data Sheets.
- b. Dimensional outline drawings containing overall dimensions; mounting connections; clearances for installation, operation, and maintenance; lifting requirements; weights of major components; and definition of extent of shop assembly.
- c. List of commissioning spares.
- d. Performance data and curves including: speed and torque curves; velocity pressure vs. flow curves; total efficiency curves; horsepower and kW input curves; and total and static pressure vs. flow curves.
- e. Consumables List including compressed air, cooling water, and electricity required by equipment and controls.
- f. Evasé physical dimensions, if required by Contractor.
- g. Static and dynamic loading requirements for support designs including any special requirements of limitations such as minimum spring constant, natural frequency, and rate of temperature change.

6.1.4 Large Motors:

- a. Detailed motor layout drawings showing dimension, anchor locations, weight, lifting points, center of gravity, enclosure construction, nameplate drawing, detailed motor terminal box arrangements, and layout of accessories exactly matching Drawings X63, X64, and 65.
- b. List of recommended start-up parts, spare parts, and maintenance tools for each type of motor.
- c. Recommended long term and short term storage requirements and procedures.
- d. Warranty data.
- e. Indicate if forced-feed lubrication is required.
- f. Motor curves showing starting current and power factor at 80%, 90%, and 100% terminal voltage.
- g. Motor torque versus speed curves at 80%, 90%, and 100% voltage.
- h. Motor load versus efficiency and power factor curves.
- i. Torque versus speed curve for driven equipment.
- j. Motor hot and cold thermal damage curves.
- k. Motor full load and no load acceleration times at 80% and 100% voltage.
- l. Detailed list of physical characteristics indicating how proposed motor differs from specifications and Drawings X63, X64, and X65.

6.1.5 Data Sheets bound at end of technical specifications.

END OF SECTION 00410

ARTICLE 1- DEFINITIONS AND TERMINOLOGY1.01 *Defined Terms*

A. Whenever used in the Bidding Requirements or Equipment Contract and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to the singular or plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Equipment Contract include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Those written or graphic instruments issued prior to the opening of Proposals in accordance with the Bidding Requirements which clarify or change the Bidding Requirements or the proposed Equipment Contract.

2. *Application for Payment or Invoice*--The form acceptable to Owner which is used by Contractor in requesting progress and final payments and which is accompanied by such supporting documentation as is required by the Contract Documents.

3. *Bidder*--A person who submits a Proposal directly to Owner.

4. *Bidding Documents*--The Bidding Requirements and the proposed Equipment Contract (including all Addenda).

5. *Bidding Requirements*--The Notice and Instructions to Bidders, Form of Proposal security, if any, and Proposal Form with any supplements.

6. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision to the Equipment Contract or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Contract.

7. *Claim*--A written demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract.

8. *Contract*--The entire and integrated written agreement between Owner and Contractor concerning the Equipment and Special Services. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

9. *Contractor*--The person furnishing the Equipment and Special Services.

10. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Equipment Contract, RUS Form 198, Rev. 2-04, Addenda (which pertain to the Contract Documents), Contractor's Proposal (including documentation accompanying the Proposal and any post Proposal documentation submitted prior to the Notice of Award), the Notice to Proceed, the Bonds,⁽¹⁾ these General Conditions, the Specifications and the Drawings as the same are more specifically identified in the Contract Documents, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Engineer's written interpretations and clarifications issued on or after the Effective Date of the Contract. Only printed or hard copies of the items listed in the Contract are part of the Contract Documents. Files in electronic media format of text, data, graphics, and the like are not part of the Contract Documents, and may not be relied on by Contractor. Approved Shop Drawings and other Contractor's submittals are not part of the Contract Documents.

11. *Contract Price*--The moneys payable by Owner to Contractor for furnishing the Equipment and Special Services in accordance with the Equipment Contract as stated in the Contract.

12. *Contract Times*--The times stated in the Contract by which the Equipment must be delivered and Special Services must be furnished.

13. *Drawings*--That part of the Equipment Contract prepared or approved by Engineer, which graphically shows the scope, intent, and character of the Equipment and Special Services to be furnished by Contractor.

14. *Effective Date of the Contract*--The date indicated in the Contract on which it becomes effective, but if no such date is indicated, it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.

15. *Engineer*--Stanley Consultants, Inc.

16. *Equipment*--The tangible and movable personal property that is described in the Equipment Contract, regardless of whether the property is to be later attached to realty.

17. *Field Order*--A written order issued by Engineer which requires minor changes in the Equipment or Special Services but which does not involve a change in the Contract Price or Contract Times.

18. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

19. *Laws and Regulations, Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

20. *Milestone*--A principal event specified in the Equipment Contract relating to an intermediate completion date or time prior to the Contract Times.

21. *Notice of Award*--The written notice by Owner to the apparent Successful Bidder stating that upon timely compliance by the apparent Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Contract.

22. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times commence to run and on which Contractor shall start to perform under the Contract.

23. *Owner*--The person or public entity purchasing the Equipment and Special Services.

24. *Point of Destination*--The specific address of the location where delivery of the Equipment shall be made as stated in the Contract.

25. *Project*--The total undertaking of which the Equipment and Special Services to be provided under the Contract are a part.

26. *Project Manual*--The bound documentary information prepared, for bidding and furnishing the Equipment and Special Services. A listing of the contents of the Project Manual; which may be bound in one or more volumes, is contained in the table(s) of contents.

27. *Proposal*--An offer or bid submitted on the prescribed form setting forth the prices for the Equipment and Special Services to be provided.

28. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Equipment and which establish the standards by which such portion of the Equipment or Special Services will be judged.

29. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Equipment or Special Services.

30. *Special Services*--Services associated with the Equipment to be furnished by Contractor as required by the Equipment Contract.

31. *Specifications*--That part of the Equipment Contract consisting of written technical descriptions of materials, equipment, systems, standards and workmanship as applied to the furnishing of the Equipment and Special Services, and certain administrative details applicable thereto.

32. *Successful Bidder*--The lowest responsible Bidder submitting a responsive Bid, to whom Owner makes an award.

33. *Written Amendment*--A written statement modifying the Equipment Contract, signed by Owner and Contractor on or after the Effective Date, of the Contract and normally dealing with the administrative aspects of the Equipment Contract.

34. *Unit Price Work or Special Services* - Work or Special Services to be paid for on the basis of unit prices.

1.02 *Terminology*A. *Intent of Certain Terms or Adjectives*

1. The Equipment Contract includes the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or

⁽¹⁾ See Exceptions and Clarifications

determination of Engineer as to, the Equipment-, or Special Services-. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Equipment or Special Services for compliance with the requirements of and information in the Equipment Contract and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Equipment Contract (unless there is a specific statement indicating otherwise). The use of any such term or adjective, shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing of Equipment or Special Services or any duty or authority to undertake responsibility contrary to any other, provision, of the Equipment Contract.

2. Unless stated otherwise in the Equipment Contract, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Equipment Contract in accordance with such recognized meaning.

3. The word "non-conforming" when modifying the words "Equipment" or "Special Services", refers to Equipment or Special Services that fail to conform to the Equipment Contract.

4. The word "receipt" when referring to the Equipment, shall mean the physical taking and possession by the Owner under the conditions specified in Paragraph 8.01.B.3.

B. Day

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds - Not used.*

2.02 *Copies of Documents*

A. Owner shall furnish Contractor up to five copies of the Equipment Contract. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the ninetieth day after the day of Proposal opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

2.04 *Designated Representatives*

A. Owner and Contractor shall each designate its representative at the time the Contract is signed. Each representative shall have full authority to act on behalf of and make binding decisions in any matter arising out of or relating to the Contract.

2.05 *Before Starting Fabrication/Assembly of Equipment*

A. Contractor's Review of Equipment Contract: Before commencing performance of the Contract, Contractor shall carefully study and compare the Equipment Contract and check and verify pertinent requirements therein and, if specified, all applicable field measurements. Contractor shall promptly report in writing to Owner and Engineer any conflict, error, ambiguity or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any work affected thereby.

2.06 *Progress Schedule*

A. Within 15 days after the Contract Times start to run, Contractor shall submit to Owner and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Equipment Contract. No progress payment will be made, to Contractor until an acceptable schedule is submitted to Owner and Engineer.

B. The progress schedule will be acceptable to Owner and Engineer if it provides an orderly progression of the submittals, tests, and deliveries to completion within the specified Milestones and the Contract Times. Such acceptance will not impose on Owner or Engineer responsibility for the progress schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Contractor from Contractor's full responsibility therefor. Such acceptance shall not be deemed to acknowledge the reasonableness and attainability of the schedule.

2.07 *Preliminary Conference*

A. Within 20 days after the Contract Times start to run, a conference attended by Contractor, Owner, Engineer and others as appropriate will be held to establish a working understanding among the parties as to the Equipment and Special Services and to discuss the schedule referred to in Paragraph 2.06 A., procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

ARTICLE 3 -EQUIPMENT CONTRACT DOCUMENTS: INTENT AND AMENDING

3.01 *Intent*

A. The Equipment Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Equipment Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided, whether or not specifically called for, at no additional cost to Owner.

C. Clarifications and interpretations of, or notifications of minor variations and deviations in, the Equipment Contract Documents, will be issued by Engineer as provided in Article 9.

3.02 *Laws and Regulations, Standards, Specifications and Codes*

A. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws and Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws and Regulations in effect at the time of opening of Proposals (or on the Effective Date of the Contract, if there were no Proposals), except as may be otherwise specifically stated in the Equipment Contract.

B. No provision of any such standard, specification, manual or code, or any instruction of a supplier shall be effective to change the duties or responsibilities of Owner or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Equipment Contract, nor shall any such provision or instruction be effective to assign to Owner or Engineer, or any of their consultants, agents, or employees any duty or authority to supervise or direct the performance of Contractor's obligations or any duty or authority to undertake responsibility inconsistent with the provisions of the Equipment Contract.

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies: If, during the performance of the Contract, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Equipment Contract or between the Equipment Contract and any provision of any Law or Regulation applicable to the performance of the Contract or of any standard, specification, manual or code, or of any instruction of any supplier, Contractor shall promptly report it to Owner in writing for Engineer's review. Contractor shall not proceed with the furnishing of the Equipment or Special Services affected thereby until an amendment to or clarification of the Equipment Contract has been issued. Contractor shall not be liable to Owner or Engineer for failure to report any such conflict, error, ambiguity, or discrepancy unless Contractor knew or reasonably should have known thereof.

B. Resolving Discrepancies: Except as may be otherwise specifically stated in the Equipment Contract, the provisions of the Equipment Contract shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Equipment Contract and:

1. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Equipment Contract); or
2. the provisions of any Laws or Regulations applicable to the furnishing of the Equipment and Special Services (unless such an interpretation of the provisions of the Equipment Contract would result in violation of such Law or Regulation)

3.04 *Amending and Clarifying Equipment Contract*

A. The Equipment Contract may be amended to provide for additions, deletions, and revisions to the Equipment or Special Services or to modify the terms and conditions thereof by a Written Amendment or a Change Order.

B. The requirements of the Equipment Contract may be supplemented, and minor variations and deviations in the Equipment or Special Services not affecting Contract Price or Contract Times may be authorized, by one or more of the following ways: 1) a Field Order; 2) Engineer's approval of a Shop Drawing pursuant to Paragraph 5.06.D.2; or 3) Engineer's written interpretation or clarification.

ARTICLE 4 - BONDS AND INSURANCE

4.01 *Bonds -- Not Used*

4.02 *Insurance- See RUS Form 198, Article IV, Section 2.*

ARTICLE 5 - CONTRACTOR'S RESPONSIBILITIES

5.01 *Supervision and Superintendence*

A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures used in performing its obligations. Contractor shall be responsible to see that the completed Equipment and Special Services conform to the Equipment Contract

5.02 *Labor, Materials and Equipment*

A. Contractor shall provide competent, qualified and trained personnel in all aspects of its performance of the Contract.

B. All equipment, products and material incorporated into the Equipment shall be as specified, or if not specified, shall be new, of good quality and protected, assembled, used, connected, applied, cleaned and conditioned in accordance with the original manufacturer's instructions, except as otherwise may be provided in the Equipment Contract

5.03 *Compliance with Laws and Regulations, Standards, Specifications and Codes*

A. Contractor shall comply with all Laws and Regulations applicable to the furnishing of the Equipment and Special Services.

B. When this order and contract refer to manufactured goods or to work or services, Bidder warrants and agrees that it has complied and will comply with (1) Fair Labor Standards Act; (2) Social Security and Workman's Compensation Laws, if work is done on Owner's premises; and (3) all other applicable Federal, State and local laws, codes and regulations. It is the policy of Owner to provide equal opportunities in employment without regard to race, color, religion, sex, age, or national origin and to employ and advance qualified disabled veterans, handicapped or disabled persons and Vietnam era veterans, Owner complies with the requirements placed on government contractors and subcontractors by Executive Order 11246, Section 402 of the

Vietnam Era Veterans Readjustment Assistance Act of 1974 and Section 503 of the Rehabilitation Act of 1973, and it is agreed that as a Subcontractor, vendor, or supplier, Bidder will also comply with the Executive Order, laws, and applicable rules and regulations. Bidder agrees to indemnify Owner and save Owner harmless if Bidder fails to comply with the foregoing, and in the event of such failure Owner may, in addition, cancel this order and contract. Bidder invoices for work or materials covered hereby shall state that Bidder has complied with the requirements of the Fair Labor Standards Act of 1938 as amended.

5.04 *Or Equals*

A. Refer to Section 01600 -- Product Requirements.

B. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made. Engineer will be the sole judge of acceptability. No "or-equal" will be ordered, manufactured or utilized until Engineer's review is complete, which will be evidenced by an approved Shop Drawing. Engineer will advise Owner and Contractor in writing of any negative determination. Notwithstanding Engineer's approval of an "or-equal" item, Contractor shall remain obligated to comply with the requirements of the Equipment Contract.

C. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any such proposed "or-equal."

D. Data: Contractor shall provide all data in support of any such proposed "or-equal" at Contractor's expense.

5.05 *Taxes*

A. Do not include any sums which are or may be payable by the Contractor on account of taxes imposed by any taxing authority upon the sale, purchase or use of the Equipment. If any such tax is applicable to the sale, purchase or use of the Equipment hereunder, the amount thereof shall be added to the purchase price and paid by the Owner.

5.06 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Owner for Engineer's review in accordance with the schedule required in Paragraph 2.06.A. All submittals will be identified as required and furnished in the number of copies specified in the Equipment Contract. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide.

B. Where a Shop Drawing or Sample is required by the Equipment Contract, any related work performed prior to Engineer's review of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

- a. all field measurements (if required), quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto; and
- b. that all materials are suitable with respect to intended-use;⁽¹⁾ fabrication, shipping, handling, storage, assembly, and installation pertaining to the furnishing of Equipment and Special Services.

2. Contractor shall also have reviewed and coordinated each Shop Drawing or Sample with the Equipment Contract.

3. Each submittal shall include a written certification from Contractor that Contractor has reviewed the subject submittal and confirmed that it is in compliance with the requirements of the Equipment Contract. Both Owner and Engineer shall be entitled to rely on such certification from Contractor.

⁽¹⁾ See Exceptions and Clarifications

4. With each submittal, Contractor shall give Owner and Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Equipment Contract. This notice shall be both in a written communication separate from the submittal and by specific notation on each Shop Drawing or Sample.

D. Engineer's Review

1. Engineer will provide timely review of Shop Drawings and Samples

2. Engineer's review of Shop Drawings or Samples will be subject to the standard of Paragraph 1.02 A.1. Engineer's review will not relieve Contractor from responsibility for any variation from the requirements of the Equipment Contract unless Contractor has in writing called Engineer's attention to each such variation at the time of each submittal as required by Paragraph 5.06.C.1 and Engineer has given written notification of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample review.

E. Resubmittal Procedures. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review. Contractor shall direct specific attention in writing to any revisions other than the corrections called for by Engineer on previous submittals.

5.07 Continuing Performance

A. Contractor shall adhere to the progress schedule established in accordance with Paragraph 2.06.A., and the Equipment shall be delivered and the Special Services furnished within the Contract Times specified in the Contract.

B. Contractor shall carry on the work and adhere to the progress schedule during all disputes or disagreements with Owner. No work shall be delayed or postponed pending resolution of any disputes or disagreements.

5.08 Contractor's Warranties and Guarantees

A. Contractor warrants and guarantees to Owner that the title to the Equipment conveyed shall be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance provided Contractor has received payment therefore. ⁽¹⁾

B. Contractor warrants and guarantees to Owner that all Equipment and Special Services will conform to the Equipment Contract, including any Samples approved by Engineer, and the Equipment will be of merchantable quality. Engineer shall be entitled to rely on representation of Contractor's warranty and guarantee and be of good quality for a period of : twelve (12) months from date of commercial operation or 04/01/09 whichever is earlier. ⁽¹⁾

C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, improper modification or improper maintenance or operation by persons other than Contractor, or
2. normal wear and tear under normal usage.

D. Contractor's obligation to furnish the Equipment and Special Services in accordance with the Equipment Contract shall be absolute. None of the following will constitute an acceptance of Equipment or Special Services that are non-conforming, or a release of Contractor's obligation to furnish the Equipment and Special Services in accordance with the Equipment Contract:

1. observations by Owner or Engineer;
2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. use of the Equipment by Owner;
4. any acceptance by Owner (subject to the provisions of Paragraph 8.02 D.1) or any failure to do so;
5. the issuance of a notice of acceptance by Owner pursuant to the provisions of Article 8;
6. any inspection, test or approval by others; or
7. any correction of non-conforming Equipment or Special Services by Owner.

E. Owner shall within a reasonable time notify Contractor of any breach of Contractor's warranties or guarantees. If Owner receives notice of a suit or claim as a result of such breach, Owner also may give Contractor notice in writing to defend such suit or claim. If Contractor fails to defend such suit or claim, Contractor will be bound in any subsequent suit or claim against Contractor by Owner by any factual determination in the prior suit.

5.09 Indemnification - See RUS Form 198, Article IV, Section 1.

THE WARRANTIES SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTIES AND GUARANTEES (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE FOR USE FOR THE PURPOSE INTENDED) WHETHER WRITTEN OR ORAL OR IMPLIED IN FACT OR IN LAW, AND WHETHER BASED ON STATUTE, WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE OR ANY NATURE WHETHER SOLE OR CONCURRENT), OR OTHERWISE. SELLER FURTHER DISCLAIMS ANY RESPONSIBILITY WHATSOEVER TO PURCHASER OR TO ANY OTHER PERSON FOR INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY OR VALUE CAUSED BY ANY PRODUCT THAT HAS BEEN SUBJECT TO MISUSE, NEGLIGENCE, OR ACCIDENT; OR MISAPPLIED; OR MODIFIED OR REPAIRED BY UNAUTHORIZED PERSONS, OR IMPROPERLY INSTALLED.

ANY WARRANTY ON EQUIPMENT IS CONDITIONAL ON CORRECT ASSEMBLY AND INSTALLATION AND SHALL BE INVALID IF EQUIPMENT IS INCORRECTLY ASSEMBLED OR INSTALLED. ⁽¹⁾

ARTICLE 6 - SHIPPING AND DELIVERY

6.01 Shipping

A. Contractor shall select the carrier and bear all costs of packaging, transportation, insurance, special handling and any other costs associated with shipment and delivery. Freight costs will be charged at current rates at delivery dates. ⁽¹⁾

6.02 Delivery

A. Contractor shall deliver the Equipment F.O.B. the Point of Destination in accordance with the Contract Times set forth in the Equipment Contract, or other date agreed to by Owner and Contractor.

B. Contractor shall provide written notice to Owner at least 15 days before shipment of the manner of shipment and the anticipated delivery date. The notice shall also include any instructions concerning special equipment or services required at the Point of Destination to unload and care for the Equipment. Contractor shall also require the carrier to give Owner at least 48 hours notice by telephone prior to the anticipated hour of delivery.

C. Owner will be responsible and bear all costs for unloading the Equipment from carrier.

D. Owner will assure that adequate facilities are available to receive delivery of the Equipment during the Contract Times set forth in the Contract, or another date agreed by Owner and Contractor.

E. No partial deliveries shall be allowed, unless permitted or required by the Equipment Contract or agreed to in writing by Owner.

6.03 Risk of Loss

A. Risk of loss and insurable interests transfer from Contractor to Owner upon Owner's receipt of the Equipment.

B. Notwithstanding the provisions of Paragraph 6.03.A, if Owner rejects the Equipment as non-conforming, the risk of loss on such Equipment shall remain with Contractor until Contractor corrects the non-conformity or Owner accepts the Equipment. ⁽¹⁾

⁽¹⁾ See Exceptions and Clarifications

ARTICLE 7 - CHANGES: SCHEDULE AND DELAY

7.01 Changes in the Equipment and Special Services

A. Owner may at any time, without notice to any surety, make changes in the Equipment Contract within the general scope of the Contract.

B. If any such change or action by Owner affects the Contract Price or Contract Times, Contractor shall notify Owner within 15 days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Owner within 45 days after such occurrence. If Contractor fails to do so, Contractor waives any Claim for such adjustment.

C. Contractor shall not suspend performance while Owner and Contractor are in the process of making such changes and any related adjustments.

7.02 Changes in Laws and Regulations

A. Changes in Laws or Regulations not known at the time of opening of Proposals (or, on the Effective Date of the Contract if there were no Proposals) having an effect on the cost or time of furnishing the Equipment and Special Services shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 9.06.A.

7.03 Changing Contract Price or Contract Times

A. The Contract Price or Contract Times may only be changed by:

1. a Change Order;
2. a Written Amendment; or
3. a written unilateral order of Owner, in which case

Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times for any reasonable and necessary costs or delays incurred by Contractor to accommodate such a change.

B. If Contractor is prevented from delivering the Equipment or performing the Special Services within the Contract Times for any unforeseen reason beyond its control and not attributable to its actions or inactions, then Contractor shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include fire, floods, epidemics, abnormal weather conditions, acts of God, acts of war, directions by government authority, and other like matters. If such an event occurs and delays Contractor's performance, Contractor shall notify Owner in writing within 15 days of the beginning of the event causing the delay, stating the reason therefor.

C. Contract Times will not be modified for delays within the control of Contractor, including labor strife, transportation shortages or delays at Contractor's facilities. Delays attributable to and within the control of Contractor's subcontractors or suppliers shall be deemed to be delays within the control of Contractor.

D. If Contractor is prevented from delivering the Equipment or furnishing the Special Services within the Contract Times due to the actions or inactions of Owner, Contractor shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Owner.

E. Neither Owner nor Contractor shall be entitled to any damages arising from delays which are beyond the control of both Owner and Contractor, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, acts of war, direction by government authority, and other like matters.

ARTICLE 8 - OWNER'S RIGHTS

8.01 Inspections and Testing

A. *General:*

1. Owner shall have the right to perform, or cause to be performed, reasonable inspections and require reasonable tests of the Equipment at Contractor's facility, and at the Point of Destination. Contractor shall allow Owner a reasonable time to perform such inspections or tests.

2. Contractor shall bear all expenses, except for travel, lodging and subsistence expenses of Owner's representatives, for inspections and tests at Contractor's facility, but Owner shall be entitled to reimbursement from Contractor of travel, lodging and subsistence expenses of Owner's representatives if the Equipment are nonconforming.

3. Owner shall bear all expenses, except for travel, lodging and subsistence expenses of Contractor's representatives, for inspections and tests at the Point of Destination, but Owner shall be entitled to reimbursement from Contractor for Owner's expenses for reinspection or retesting if, on the basis of an initial inspection or testing, Equipment is determined to be nonconforming.

4. Contractor shall provide Owner 30 days written notice of the readiness of the Equipment for all inspections, tests, or approvals which the Equipment Contract specify are to be observed by Owner prior to shipment.

5. Owner will give Contractor timely notice of all specified tests, inspections and approvals of the Equipment which are to be conducted at the Point of Destination.

6. If, on the basis of any inspections or testing, the Equipment appear to be conforming, Owner will give Contractor prompt notice thereof. If on the basis of said inspections or testing, the Equipment appear to be non-conforming, Owner will give Contractor prompt notice thereof and will advise Contractor of the remedy Owner elects under the provisions of paragraph 8.02.

7. Neither payments made by Owner to Contractor prior to any tests or inspections, nor any tests or inspections shall constitute acceptance of non-conforming Equipment, or prejudice Owner's rights under the Contract.

B. *Inspection on Delivery:*

1. Owner or Engineer will inspect the Equipment upon delivery solely for purposes of identifying the Equipment and general verification of quantities and observation of apparent condition in order to provide a basis for a progress payment. Such inspection will not be construed as final or as receipt of any Equipment and Special Services that, as a result of subsequent inspections and tests, are determined to be non-conforming.

2. Within ten days of such inspection, Owner shall provide Contractor with written notice of Owner's determination regarding conformity of the Equipment. In the event Owner does not provide such notice, it will be presumed that the Equipment appear to be conforming.

3. If, on the basis of the inspection specified in Paragraph 8.01.13.1, the Equipment appear to be conforming, Owner's notice thereof to Contractor will acknowledge receipt of the Equipment.

C. *Final Inspection:*

1. After all of the Equipment have been incorporated into the Project, tested in accordance with such testing requirements as are specified, and are functioning as intended in accordance with the specifications⁽¹⁾, Owner or Engineer will make a final inspection.

2. If, on the basis of the final inspection, the Equipment are conforming, Owner's notice thereof will constitute Owner's acceptance of the Equipment.

3. If, on the basis of the final inspection, the Equipment are non-conforming, Owner will identify the nonconformity in writing.

8.02 Non-Conforming Equipment or Special Services

A. If, on the basis of inspections and testing prior to delivery, the Equipment appear to be non-conforming, or if at any time after Owner has acknowledged receipt of delivery and before the expiration of the correction period described in Paragraph 8.03, Owner determines that the Equipment are nonconforming, Contractor shall promptly, without cost to Owner and in response to written instructions from Owner, either correct such non-

⁽¹⁾ See Exceptions and Clarifications

conforming Equipment, or, if rejected by Owner, remove and replace the non-conforming Equipment with conforming Equipment, including all work required for reinstallation.

B. Owner's Rejection of Non-Conforming Equipment

1. If Owner elects to reject the Equipment in whole or in part, Owner's notice to Contractor will describe in sufficient detail the non-conforming aspect of the Equipment. If Equipment has been delivered to Owner, Contractor shall promptly, and within the Contract Times, remove and replace the rejected Equipment.

2. Contractor shall bear all costs, losses and damages attributable to the removal and replacement of the nonconforming Equipment as provided in Paragraph 8.02.E.

3. Upon rejection of the Equipment, Owner retains a security interest in the Equipment or to the extent of any payments made and expenses incurred in their testing and inspection. **Provided Owner provides full access to the equipment to Contractor.**⁽¹⁾

C. Remedying Non-Conforming Equipment or Special Services

1. If Owner elects to permit the Contractor to modify the Equipment to remove the non-conformance, Contractor shall promptly provide a schedule for such modifications and shall make the Equipment conforming within a reasonable time.

2. If Owner notifies Contractor in writing that any of the Special Services are non-conforming, Contractor shall promptly provide conforming services acceptable to Owner. If Contractor fails to do so, Owner may delete the Special Services and reduce the Contract Price a commensurate amount.

D. Owner's Acceptance of Non-Conforming Equipment

1. Instead of requiring correction or removal and replacement of non-conforming Equipment discovered either before or after final payment, Owner may accept the nonconforming Equipment. Contractor shall bear all **reasonable** costs, and⁽¹⁾ losses, and damages attributable to Owner's evaluation of and determination to accept such non-conforming Equipment as provided in Paragraph 8.02.E. as **mutually agreed upon by the parties.**⁽¹⁾

E. Contractor shall pay all claims, costs, losses; and damages, including but not limited to all fees and charges for reinspection, retesting and for any engineers, and/or⁽¹⁾ architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs arising out of or relating to the nonconforming Equipment or Special Services, including the correction or removal and replacement of the nonconforming Equipment and the replacement of property of Owner and others destroyed by the correction or removal and replacement of the nonconforming Equipment,⁽¹⁾ or the obtaining of conforming Special Services from others.

8.03 Correction Period

A. The Equipment furnished hereunder shall become the property of the Owner upon deliver, provided, however, that the Owner or the Administrator, within one year after the initial date of synchronization of the turbine-generator unit with the transmissions system external to the plant, but not later than December 31, 20082005, whichever may occur first, or within the period for which the Equipment is guaranteed, whichever is longer⁽¹⁾, may reject any Equipment which does not comply with the Specifications attached hereto and made a part hereof or with the guarantees, if any, of the Contractor and the manufacturer. Upon any such rejection, the Contractor shall repair or replace such defective Equipment within a reasonable time after notice in writing from the Owner, **provided Owner makes the Equipment available to Contractor,**⁽¹⁾ and in the event of failure by the Contractor so to do, the Owner may make such replacement and the cost and expense **incurred by Owner**⁽¹⁾ thereof shall be paid by and recoverable from the Contractor.

ARTICLE 9 - ROLE OF ENGINEER

9.01 Duties and Responsibilities

A. The duties and responsibilities and the limitation authority of Engineer are set forth in the Equipment Contract.

9.02 Clarifications and Interpretations

A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the Equipment Contract as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Equipment Contract. Such written clarifications and interpretations will be binding on Owner and Contractor. If either Owner or Contractor believes that a written clarification or interpretation justifies an adjustment in the Contract Price or Contract Times, either may make a Claim therefor.

9.03 Authorized Variations

A. Engineer may authorize minor deviations or variations in the Equipment Contract by: 1) issuance of approved Shop Drawings when such change or deviation was duly noted by Contractor as required in Paragraph 5.06. C.4, or 2) a Field Order.

9.04 Rejecting Non-Conforming Equipment and Special Services

A. Engineer will have the authority to disapprove or reject Equipment or Special Services which Engineer believes to be non-conforming.

9.05 Decisions on Requirements of Equipment Contract

A. Engineer will be the initial interpreter of the Equipment Contract and judge of the acceptability of the Equipment and Special Services. Claims, disputes and other matters relating to the acceptability of the Equipment and Special Services or the interpretation of the requirements of the Equipment Contract pertaining to Contractor's performance will be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph.

B. When functioning as interpreter and judge under this Paragraph 9.05, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer pursuant to this Paragraph 9.05 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 10.07) will be a condition precedent to any exercise by Owner or Contractor of such rights or remedies as either may otherwise have under the Equipment Contract or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.06 Claims and Disputes

A. **Notice:** Written notice of each Claim, dispute or other matter relating to the acceptability of the Equipment and Special Services or the interpretation of the requirements of the Equipment Contract pertaining to Contractor's performance shall be delivered by the claimant to Engineer and the other party to the Contract within 15 days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Engineer and the other party within 45 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data.

B. **Engineer's Decision:** Engineer will render a decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. Engineer's written decision on such Claim, or dispute, or other matter will be final and binding upon Owner and Contractor unless:

1. an appeal from Engineer's decision is made within the time limits and in accordance with the dispute resolution procedures set forth in Article 13; or
2. if no such dispute resolution procedures have been set forth, a written notice of intention to appeal is delivered by Owner or Contractor to the other and to Engineer within 30

⁽¹⁾ See Exceptions and Clarifications

days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision (unless otherwise agreed to in writing by Owner and Contractor), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations

C. If Engineer does not render a formal decision in writing within the time stated in Paragraph 9.06 B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any

ARTICLE 10 - PAYMENT

THE FOLLOWING SUPERSEDES SECTION 3 - "PAYMENT" ON PAGE 4 OF THE EQUIPMENT CONTRACT

10.01 *Payment.* The Owner shall pay the Contractor a percentage of the Contract Price of the Equipment: ~~40 percent upon delivery and satisfactory review of Shop Drawings; 5 percent upon delivery of instruction manuals; and 75 percent upon receipt of Equipment.~~ Contractor shall provide ~~10 percent Standby Letter of Credit in lieu of retainage.~~ **10% upon delivery and approval of General arrangement drawings**
25% upon proof of impeller material purchase
55% upon equipment ready to ship
10% upon delivery and standby letter of credit of 10% Total Contract Value valid throughout warranty.

Payment shall be made to Contractor Net 30 days after issuance of an invoice.⁽¹⁾

When the Equipment has been installed, placed in satisfactory operation and tested, the Owner shall certify such fact to the Administrator. Upon such certification by the Administrator, the Owner shall make final payment therefor to the Contractor; provided, however, such final payment shall be made not later than December 31, 2008~~2005~~

ARTICLE 11 - CANCELLATION, SUSPENSION, AND TERMINATION

11.01 *Cancellation*

A. Owner has the right to cancel the Contract, without cause, at any time prior to delivery of the Equipment by written notice. Cancellation pursuant to the terms of this paragraph shall not constitute a breach of contract by Owner. Upon cancellation:

1. Owner shall pay Contractor for Equipment, specially manufactured for the Project, plus any documented reasonable direct and indirect costs incurred by Contractor in producing such Equipment not recovered by payment for the reasonable value of the Equipment.
2. For Equipment which are not specially manufactured for the Project, Contractor shall be entitled to a restocking charge of 10 percent of the unpaid Contract Price of such Equipment.

11.02 *Suspension of Performance by Owner*

A. Owner has the right to suspend performance of the Contract, without cause, by written notice. Upon suspension under this paragraph, Contractor shall be entitled to an increase in the Contract Times and Contract Price caused by the suspension, provided that performance would not have been suspended or delayed for causes attributable to Contractor.

11.03 *Suspension of Performance by Contractor*

A. Subject to the provisions of Paragraph 5.07 B, Contractor may suspend the furnishing of the Equipment and Special Services only under the following circumstance:

1. Contractor has reasonable grounds to conclude that Owner will not perform its future payment obligations under the

Contract ("Reasonable grounds" shall not include a pending dispute or disagreement with Owner) and,

2. Contractor has requested in writing assurances from Owner that future payments will be made in accordance with the Contract, and Owner has failed to provide such assurances within ten days of Contractor's written request.

11.04 *Breach and Termination*

A. *Owner's Breach.*

1. Owner shall be deemed in breach of the Contract if it fails to comply with any material provision of the Equipment Contract, including but not limited to:

- a. wrongful rejection or revocation of Owner's acceptance of the Equipment,
- b. failure to make payments in accordance with the Equipment Contract, or
- c. wrongful repudiation of the Contract.

2. Contractor shall have the right to terminate the Contract for cause by declaring a breach should Owner fail to comply with any material provisions of the Contract. Upon termination, Contractor shall be entitled to all remedies provided by Laws and Regulations herein⁽¹⁾.

- a. In the event Contractor believes Owner is in breach of its obligations under the Contract, Contractor shall provide Owner with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Owner shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Contractor may grant in writing) within which to cure the alleged breach.

B. *Contractor's Breach:*

1. Contractor shall be deemed in breach of the Contract if it fails to comply with any material provision of the Equipment Contract, including, but not limited to:

- a. failure to deliver the Equipment or perform the Special Services in accordance with the Equipment Contract,
- b. wrongful repudiation of the Contract; or
- c. delivery or furnishing of non-conforming Equipment or Special Services and failure to cure such discrepancy⁽¹⁾

2. Owner may terminate Contractor's right to perform the Contract for cause by declaring a breach should Contractor fail to comply with any material provision of the Equipment Contract. Upon termination, Owner shall be entitled to all remedies provided by Laws and Regulations herein.⁽¹⁾

- a. In the event Owner believes Contractor is in breach of its obligations under the Contract, and except as provided in Paragraph 11.04 B 2.b, Owner shall provide Contractor with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Contractor shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Owner may grant in writing) within which to cure the alleged breach.

- b. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 4.01, the notice and cure procedures of that bond, if any, shall supersede the notice and cure procedures of Paragraph 11.04 B 2 a.

ARTICLE 12 - LICENSES AND FEES

12.01 *Intellectual Property and License Fees*

A. Unless specifically stated elsewhere in the Equipment Contract, Contractor is not transferring any intellectual property rights, patent rights, or licenses for the Equipment delivered. However, in the event the Contractor is manufacturing or Owner's design, Owner retains all intellectual property rights in such design.

B. Contractor shall pay all license fees and royalties and assume all costs incident to the use or the furnishing of the Equipment, unless specified otherwise by the Equipment Contract.

⁽¹⁾ See Exceptions and Clarifications

12.02 *Contractor's Infringement*

A. Subject to Paragraph 12.01 A, Contractor shall indemnify and hold harmless Owner, Engineer and their officers, directors, partners, employees, agents, consultants, contractors, and subcontractors⁽¹⁾ from and against all claims, costs, losses, damages, and judgments (including but not limited to all reasonable⁽¹⁾ fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement or alleged infringement of any United States or foreign patent or copyright by any of the Equipment delivered hereunder, provided Contractor shall have control of the defense thereof ⁽¹⁾

B. In the event of suit or threat of suit for intellectual property infringement, Owner will notify Contractor within a reasonable time of receiving notice thereof.

C. Upon written demand from Owner, Contractor shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Contractor shall have control over such claim or suit, provided that Contractor agrees to bear all its⁽¹⁾ expenses and to satisfy any adverse judgment thereof

1. If Contractor fails to defend such suit or claim after written demand by Owner, Contractor will be bound in any subsequent suit or claim against Contractor by Owner by any factual determination in the prior suit or claim.

2. If Owner fails to provide Contractor the opportunity to defend such suit or claim after written demand by Contractor, Owner shall be barred from any remedy against Contractor for such suit or claim.

D. If a determination is made that Contractor has infringed upon intellectual property rights of another, Contractor may obtain the necessary licenses for Owner's benefit, or replace, the Equipment and provide related design and construction as necessary to avoid the infringement at Contractor's own expense

12.03 *Owner's Infringement*

A. Owner shall indemnify and hold harmless Contractor, and its officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of alleged infringement of any United States or foreign patent or copyright caused by Contractor's compliance with Owner's design of the Equipment or Owner's use of the Equipment in combination with other materials or equipment in any process (unless intent of such use was known to Contractor and Contractor had reason to know such infringement would result)

B. In the event of suit or threat of suit for intellectual property infringement, Contractor must within a reasonable time after receiving notice thereof notify Owner.

C. Upon written demand from Contractor, Owner shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Owner shall have control over such claim or suit, provided that Owner agrees to bear all expenses and to satisfy any adverse judgment thereof

1. If Owner fails to defend such suit or claim after written demand by Contractor, Owner will be bound in any subsequent suit or claim against Owner by Contractor by any factual determination in the prior suit or claim.

2. If Contractor fails to provide Owner the opportunity to defend such suit or claim after written demand by Owner, Contractor shall be barred from any remedy against Owner for such suit or claim.

12.04 *Reuse of Documents*

A. Neither Contractor nor any other person furnishing any of the Equipment or Special Services under a direct or indirect contract with Contractor shall: (1) acquire any title to or ownership

rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or (2) reuse any of such Drawings, Specifications, other documents, or copies thereof on any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer. This prohibition will survive termination or completion of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Equipment Contract for record purposes.

ARTICLE 13 – NOT USEDARTICLE 14 - MISCELLANEOUS14.01 *Giving Notice*

A. Whenever any provision of the Equipment Contract requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice

14.02 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Point of Destination is located.

14.03 *Computation of Time*

A. When any period of time is referred to in the Equipment Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation

14.04 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Equipment Contract, and the provisions of this paragraph will be as effective as if repeated specifically in the Equipment Contract in connection with each particular duty, obligation, right, and remedy to which they apply including, but not limited to, Articles 13 and 16. ⁽¹⁾

14.05 *Survival of Obligations*

A. All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with the Equipment Contract, as well as all continuing obligations indicated in the Equipment Contract, will survive final payment, completion and acceptance of the Equipment or Special Services and termination or completion of the Contract.

14.05 *Liquidated Damages*

A.- See RUS Form 198, Article V, Section 1.

14.06 *Certification Regarding Debarment and Suspension*

A. Certification regarding debarment, suspension, ineligibility and voluntary exclusion is required on all services greater than \$25,000. Forms are attached for this certification.

ARTICLE 15 - WARRANTY

15.01 Contractor warrants title to the product(s) and, also warrants the product(s) on date of shipment to Owner, to be of the kind of quality defined herein, and free of defects in workmanship and material.

⁽¹⁾ See Exceptions and Clarifications

15.02 This warranty is **exclusively and**⁽¹⁾ expressly in lieu of all other warranties, including but not limited to implied warranties of merchantability and fitness **for purpose for the use intended, whether written or oral or implied in fact or in law and whether based on statute, warranty, contract, tort, or otherwise.** ⁽¹⁾ and constitutes the only warranty of Contractor with respect to the product(s).

15.03 If within one year of initial operation, but not later than December 31, 2008~~2005~~ Owner discovers that such item was not as warranted above and promptly notifies Contractor in writing thereof, Contractor shall remedy such nonconformance by, at Contractor's option, adjustment or repair or replacement of the item and any affected parts of the products(s). Owner shall assume all responsibility and expense for removal, reinstallation, and freight in connection with the foregoing remedies. The same obligations and conditions shall extend to replacement parts furnished by Contractor hereunder. Contractor shall have the right of disposal of parts replaced by it.

15.04 ~~The~~^{This}⁽¹⁾ states Owner's exclusive remedy against Contractor, and its suppliers relating to the product(s), whether in contract or in tort or under any other legal theory, and whether arising out of warranties, representations, instructions, installations or defects from any cause. Contractor and its suppliers shall have no obligation as to any product which has been improperly stored or handled, or which has not been operated or maintained according to instructions in Contractor or supplier furnished manuals "

ARTICLE 16 - LIMITATION OF LIABILITY

16.01 Neither Contractor nor its suppliers shall be liable whether in contract, **warranty**⁽¹⁾ or in tort or under any other legal theory, for loss of use, revenue or profit, or for cost of capital or of substitute use or performance, or for incidental, indirect, special, or consequential damages, or for claims by Owner for damages of Owner's customers. Likewise, Contractor shall not, under any circumstances, be liable for the fault, negligence, or wrongful acts of Owner or Owner's other contractors or suppliers. In no event shall Contractor be liable in excess of the sales price of the part(s) or product found to be defective."

16.02 **The limitations set forth in this Article 16 as well as Article 15 and Article 5 shall apply even in the event of Contractor's negligence, be exclusive, and be applicable to any remedies available to Owner in paragraph 14.04.**

Articles V and VI of the RUS Form 198 (Rev. 2-04), as well as Section 00700 Standard General Conditions for the equipment Contract, Articles 16 Limitations of Liability; and Article 3 Equipment contract Documents: Intent and Amending; and Article 5 Contractor's responsibilities, Section 5.08 Contractor's Warranties and Guarantees shall survive any termination, cancellation, default or dissolution of this Contract. ⁽¹⁾

⁽¹⁾ See Exceptions and Clarifications

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS**

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

CERTIFICATION

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

HOWDEN BUFFALO INC.
Organization Name PR/Award or Project Name

N. A. ANGELINI JR VP SALES + MKTG (DIRECTOR)
Name and Title

N.A. Angelini 5/23/05
Signature Date

LOBBYING CERTIFICATION

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

HOWDEN BUFFALO INC.
Organization Name

N. A. ANGELINI JR VP SALES + Mktg (DIRECTOR)
Name of Authorized Official

N.A. Angelini
Signature

5/23/05
Date

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Work covered by Equipment Contract.
- B. Contract.
- C. Work by others.
- D. Copies of Drawings and Project Manuals.
- E. References.

1.02 WORK COVERED BY EQUIPMENT CONTRACT

- A. Work of this Agreement comprises of design, fabrication, and delivery of induced draft fan, primary air fan, and secondary air fan complete with specified auxiliary components

1.03 CONTRACT

- A. Work shall be performed under single lump sum Contract.

1.04 WORK BY OTHERS

- A. Receiving, unloading, storing, and field erection of equipment.
- B. Foundations, foundation bolts, bolt sleeves, and equipment bases.
- C. Grouting materials and placing thereof.
- D. Connection to site utilities.

1.05 COPIES OF DRAWINGS AND PROJECT MANUALS

- A. After Notice of Award, Contractor may obtain, at no charge, maximum of 5 sets of project manuals. Additional copies of project manuals will be furnished at Engineer's reproduction cost plus handling charge. If Contractor's requirements for additional project manuals necessitates reprinting of project manuals, Contractor shall pay entire cost of such reprinting. Partial sets of project manuals will not be provided.
- B. Revised project manuals, if required, will be provided by Engineer to show authorized changes or extra Work under provisions of Item "A." preceding.

1.06 REFERENCES

- A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current on date for receiving bids, except where a specific date is established by code.
- C. Obtain copies of standards where required by product specification sections.

- D. Should specified reference standards conflict with Equipment Contract, request clarification from the Engineer before proceeding.
- E. Neither the contractual relationships, duties, or responsibilities of the parties in Contract nor those of the Engineer shall be altered from the Equipment Contract by mention or inference otherwise in any reference document.
- F. Abbreviations used in Drawings and Specifications are as specified in ANSI Y1.1 and IEEE 260.
- G. Schedule of references:
1. AFBMA – Anti-Friction Bearing Manufacturers Association
 2. AFS – American Foundrymen’s Society
 3. AGMA – American Gear Manufacturers Association
 4. AHI- American Hydraulic Institute
 5. AIChE – American Institute of Chemical Engineers
 6. AISC – American Institute of Steel Construction
 7. AISI – American Iron and Steel Institute
 8. AMCA –Air Movement and Control Assoc.
 9. ANSI - American National Standards Institute
 10. API – American Petroleum Institute
 11. ASA – Acoustical Society of America
 12. ASCE – American Society of Civil Engineers
 13. ASHRAE – American Society of Heating, Refrigerating and Air Conditioning Engineers
 14. ASME – American Society of Mechanical Engineers
 15. ASPA – American Sod Producers Association
 16. ASTM – American Society for Testing and Materials
 17. AWS – American Welding Society
 18. CEMA – Conveyor Equipment Manufacturer’s Association
 19. CISPI – Cast Iron Soil Pipe Institute
 20. CMAA - Crane Manufacturers Association of America
 21. CPSC – Consumer Products Safety Council
 22. CRSI – Concrete Reinforcing Steel Institute
 23. EIA - Electronic Industries Association
 24. EJMA - Expansion Joint Manufacturers Association
 25. ETL - Electrical Testing Laboratory
 26. FGMA - Flat Glass Marketing Association
 27. FM - Factory Mutual System
 28. HI – Hydraulics Institute
 29. IAPMO International Association of Plumbing and Mechanical Officials
 30. IEEE - Institute of Electrical and Electronics Engineers
 31. IEC- International Electrotechnical Commission
 32. IES - Illuminating Engineering Society
 33. ISA - Instrument Society of America
 34. MSS - Manufacturer's Standardization Society of the Valve and Fittings Industry
 35. NAAMM - National Association of Architectural Metal Manufacturers
 36. NBS – National Bureau of Standards
 37. NEC- National Electric Code
 38. NEMA - National Electrical Manufacturers' Association
 39. NFPA - National Fire Protection Association
 40. NRMCA - National Ready Mixed Concrete Association
 41. OSHA - Occupational Safety and Health Administration
 42. PCA - Portland Cement Association
 43. PCI - Prestressed Concrete Institute
 44. PFI - Pipe Fabrication Institute
 45. RUS - Rural Utilities Services
 46. SAMA - Scientific Apparatus Makers Association
 47. SDI - Steel Deck Institute
 48. SSPC - Steel Structures Painting Council

- 49. TCA – Tile Council of America
- 50. TEMA - Tubular Exchanger Manufacturers Association
- 51. UL - Underwriters' Laboratories

PSC Request 1a.
Attachment No. 9
PAGE 50

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Form of schedules.
- B. Content of schedules.
- C. Progress revisions.
- D. Submissions.

1.02 FORM OF SCHEDULES

- A. Prepare schedules in form of horizontal bar chart.
 - 1. Provide separate horizontal bar for each operation.
 - 2. Horizontal time scale: Identify first work day of each week.
 - 3. Scale and spacing: To allow space for notations and future revisions.
- B. Format of listings: Chronological order of start of each item of Work.

1.03 CONTENT OF SCHEDULES

- A. Progress schedule show:
 - 1. Complete sequence of work by activity.
 - 2. Dates for beginning, and completion of, each major element of design, procurement, and fabrication.
 - 3. Projected percentage of completion for each item, as of first day of each month.
- B. Submittal Schedule for Shop Drawings, manuals, and Samples shall show dates for Contractor's submittals.

1.04 PROGRESS REVISIONS

- A. Indicate progress of each activity to date of submission.
- B. Show changes occurring since previous submission of schedule:
 - 1. Major changes in scope.
 - 2. Activities modified since previous submission.
 - 3. Revised projections of progress and completion.
 - 4. Other identifiable changes.
- C. Provide narrative report as needed to define:
 - 1. Statement summarizing the status and condition of the work.
 - 2. Status of major material procurement.
 - a. Description of work.
 - b. Date order is to be placed or the date order was placed.
 - c. Subcontractor's name.
 - 3. Problem areas, anticipated delays, and impact on schedule.
 - 4. Corrective action recommended, and its effect.
- D. Progress photographs of specific parts of stages of work when requested by Engineer.

1.05 SUBMISSIONS

- A. Submit proposed milestone schedule with Proposal.
- B. Submit initial schedules and revised progress schedules as indicated in Section 01335.
- C. Submit 2 opaque reproducible copies of schedule to Owner and 2 to Engineer.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

PSC Request 1a.
Attachment No. 9
PAGE 53

1.01 SECTION INCLUDES

- A. Shop Drawings.
- B. Samples
- C. Data sheets.
- D. Contractor responsibilities.
- E. Submission requirements.
- F. Document submittal schedule.
- G. Resubmission requirements.
- H. Distribution.
- I. Engineer duties.
- J. Shop Drawing Transmittal Form.

1.02 SHOP DRAWINGS

- A. Contractor shall submit the items listed in the "Document Submittal Schedule."
- B. Designate in progress schedule, or in separate coordinated schedule, dates for submission of all required documents.
- C. Shop Drawings shall be presented in clear and thorough manner, complete with respect to dimensions, design criteria, materials of construction, and like information to enable Engineer to review information as required.
- D. Sheet size:
 - 1. Minimum: 8-1/2" x 11".
 - 2. Maximum: 36" x 60".

1.03 SAMPLES

- A. Samples shall be identified clearly as to material, manufacturer, any pertinent catalog numbers, and use for which Intended, and shall be of sufficient size and quantity to clearly illustrate:
 - 1. Functional characteristics of item, with integrally related parts and attachment devices.
 - 2. Full range of color, texture, and pattern.

1.04 DATA SHEETS

- A. Data Sheets may require information not known until Contractor's engineering is complete. Furnish estimated values based on good engineering judgment. Estimated values shall be identified by placement of "(est.)" next to value.
- B. Data Sheets shall be updated and resubmitted by Contractor once final values are known.
- C. Do not leave items blank or labeled "To Be Determined" or "Later."

- D. Do not submit manufacturer Product Data instead of completed Data Sheets.

PSC Request 1a.
Attachment No. 9
PAGE 54

1.05 CONTRACTOR RESPONSIBILITIES

- A. Review Shop Drawings and Samples prior to submission.
- B. Determine and verify:
1. Field construction criteria
 2. Catalog numbers and similar data.
 3. Conformance to Specifications.
- C. Coordinate each submittal with other submittals and with requirements of Work and of Contract Documents.
- D. Notify Engineer in writing, at time of submission, of any variation in submittals from requirements of Contract Documents. Any such deviations permitted by Engineer will require modifications of Contract Documents.
- E. Begin no fabrication or Work which requires submittals until return of submittals by Engineer with Engineer stamp, as either "Reviewed" or "Reviewed as Noted." Any related Work performed prior to such return of pertinent submittal will be sole expense and responsibility of Contractor.
- F. Equipment shall not be delivered until return of shop test results by Engineer with Engineer stamp, as either "Reviewed" or "Reviewed as Noted." Any related Work performed prior to such return of pertinent submittal will be sole expense and responsibility of Contractor.

1.06 SUBMISSION REQUIREMENTS

- A. Make submittals to Engineer promptly in accordance with approved schedule, and in such sequence as to cause no delay in Work or in work of any other contractor.

- B. Deliver submittals to:

Mr. Larry Shell
Stanley Consultants, Inc.
Stanley Building
225 Iowa Avenue
Muscatine, Iowa 52761

- C. Number of submittals required:
1. Shop Drawings:
 - a. Submit 3 reproducible copies of each Shop Drawing.
 - b. Copies of drawings submitted shall be black line on white background.
 - c. Engineer will use 35 mm microfilm system in processing Shop Drawings. Shop Drawings shall be suitable for microfilming. Shop Drawings submitted which are not suitable for microfilming will not be reviewed.
 2. Samples: Submit number stated in each Specification section.
 3. Drawings shall be folded to 8-1/2" x 11". Reproducible prints shall be rolled.
- D. Submittals shall contain:
1. Date of submission and dates of any previous submissions.
 2. Project title and number.
 3. Contract identification.
 4. Names of:
 - a. Contractor.
 - b. Supplier.
 - c. Manufacturer.

5. Identification of product, with Specification section number.
6. Field dimensions, clearly identified as such
7. Relation to adjacent or critical features of Work or materials
8. Applicable standards, such as ASTM or Federal Specification numbers.
9. Identification of deviations from Contract Documents
10. Identification of revisions on resubmittals.
11. An 8" x 3" blank space for Engineer stamp.
12. Indication of Contractor's approval, initialed or signed, with wording substantially as follows:

"Contractor represents to Owner and Engineer that Contractor has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, or assumes full responsibility for doing so and has reviewed or coordinated each Shop Drawing or Sample with requirements of Equipment and Equipment Contract."

- ~~13. If Equipment Contract includes performance specifications stating required results which can be verified as meeting stipulated criteria, so that further detailed design by Contractor prior to fabrication is necessary, Shop Drawings must be prepared under seal of professional engineer registered in appropriate jurisdiction and Shop Drawing certification shall contain wording substantially as follows:~~

~~"I hereby certify that this engineering document was prepared by me or under my direct personal supervision, that I am a duly licensed Professional Engineer under the laws of the State of Kentucky and I accept responsibility for the adequacy of this document to meet criteria stipulated in the Contract Documents".⁽¹⁾~~

- 14.13.** Shop Drawing Transmittal Form is bound herein. This form is also available on disk and may be obtained from the Engineer. Contractor shall reproduce any additional copies required and use in accordance with instructions given with Transmittal Form. Contractor shall submit 2 copies of Transmittal Form for initial submittals and resubmittals.

1.07 DOCUMENT SUBMITTAL SCHEDULE

Item	Description	Reference Section Number	Time of Submittal (calendar days after Notice to Proceed unless noted otherwise)
GENERAL			
1.	Quality assurance manual		45
2.	Inspection and test plan		30 days prior to first fabrication
3.	Welding procedures, including procedure qualification records	01460	45
4.	Preliminary schedules for fabrication, shop testing, and delivery of equipment	01320	With Proposal
5.	Progress schedules	01320	15 days after Notice to Proceed and by the 10th of each month until the equipment arrives on site
6.	Preliminary operating and maintenance instruction manuals including receiving and storage instructions	01785	75 days prior to equipment shipment
7.	Final operating and maintenance instruction manuals	01785	30 days after receiving comments to preliminary manual
8.	Proposed test procedures for shop testing	15830 16223 16225	30 days prior to performing shop tests

⁽¹⁾ See Exceptions and Clarifications

Item	Description	Reference Section Number	Time of Submittal (calendar days after Notice to Proceed unless noted otherwise)
9.	Notification of tests	01451 15830 16223 16225	10 days prior to test/inspection
10.	Test data and inspection certificates	15830 16223 16225	Within 14 days following each test or inspection
11.	Priced recommended spare parts list		With Proposal
12.	Lubrication/consumables chemical list		With preliminary instruction manual
DELIVERY			
1.	Notice of preshipment inspection	01600	30 days prior to shipment
2.	Shipping notice	00700 01600	15 days prior to arrival
3.	Packing lists, lists of shipped loose items, lists of bulk materials shipped	01600	15 days prior to shipment
4.	Material Safety Data Sheets		60 days prior to first shipment to site
5.	Notice of presence of hazardous materials		When hazardous materials are shipped to site
TECHNICAL			
1.	Completed Data Sheets	15830 16223 16225	With Proposal
2.	Outline drawings indicating supports, duct connections, and miscellaneous connections including all major dimensions and loads.		Preliminary with Proposal and Certified 21 days after Notice to Proceed
3.	Complete erection drawings indicating recommended lift points		60
4.	Foundation and anchorage requirements		Preliminary with Proposal and Certified 21 days after Notice to Proceed
5.	Erection and storage requirements including unit weights and center of gravity		60

1.08 RESUBMISSION REQUIREMENTS

- A. Make any corrections or changes in submittals required by Engineer and resubmit until stamped as "Reviewed" or "For Information Only" by Engineer. Contractor shall include issue number or issue date in document revision block or other clearly identified location on document. Changes shall be back-circled or otherwise clearly identified

1.09 DISTRIBUTION

- A. Distribute reproductions of Shop Drawings which carry Engineer stamp as either "Reviewed" or "Reviewed as Noted" to:
1. Record Documents file.
 2. Subcontractors.
 3. Supplier or fabricator.
- B. Distribute Samples which carry Engineer stamp as either "Reviewed" or "Reviewed as Noted" as directed by Engineer.

1.10 ENGINEER DUTIES

- A. Review required submittals with reasonable promptness and in accord with schedule, only for general conformance to design concept of Project and compliance with information given in Contract Documents. Review shall not extend to means, methods, sequences, techniques, or procedures of construction or to safety precautions or program incident thereto. Review of a separate item as such will not indicate approval of assembly in which item functions.
- B. Affix stamp and initials or signature, and indicate requirements for resubmittal, or review of submittal. Engineer's action on submittals is classified as follows:
 - 1. **Reviewed:** Submittal has been reviewed and appears to be in conformance to design concept of Project and Contract Documents. Contractor may proceed with fabrication of work in submittal.
 - 2. **Reviewed As Noted:** Submittal has been reviewed and appears to be in conformance to design concept of Project and Contract Documents, except as noted by Engineer. Contractor may proceed with fabrication of work in submittal with modifications and corrections as indicated by Engineer.
 - 3. **Resubmit:** Submittal has been reviewed and appears not to be in conformance to design concept of Project or with Contract Documents. Contractor shall not proceed with fabrication of work in submittal, but instead shall make any corrections required by Engineer and resubmit for review.
 - 4. **Returned without Review:** Submittal is being returned without having been reviewed because:
 - 1) not required by Contract Documents; 2) grossly incomplete; 3) indicates no attempt at conformance to Contract Documents; 4) cannot be reproduced; 5) lacks Contractor's completed approval stamp; or 6) lacks design professional's seal when required by law or Contract Documents. If submittal is required by Contract Documents, Contractor shall not proceed with Work as detailed in submittal, but instead shall correct defects and resubmit for review.
 - 5. **For Information Only:** Submittal has not been reviewed but is being retained for informational purposes only.
- C. Return submittals to Contractor.
- D. Engineer's review of submittals shall not relieve Contractor from responsibility for any variation from Contract Documents unless Contractor has, in writing, called Engineer's attention to such variation at time of submission, and Engineer has given written concurrence pursuant to Contract Documents to specific variation, nor shall any concurrence by Engineer relieve Contractor from responsibility for errors or omissions in submittals.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

PSC Request 1a.
Attachment No. 9
PAGE 59

1 01 SECTION INCLUDES

A. Service engineer responsibilities

1 02 SERVICE ENGINEER RESPONSIBILITIES

- A. Contractor shall provide qualified Service Engineer(s), as necessary to:
1. Instruct and advise Owner regarding proper method for unloading, erecting, and installing equipment to assure installation in accordance with manufacturer's instructions.
 2. Assure that alignment and clearances of equipment are checked and adjusted to allowable tolerances.
 3. Inspect completed installation to assure that apparatus is in operating condition, making such detailed checks of equipment installation as are necessary to ascertain that equipment is assembled, installed, aligned, connected, lubricated, and prepared for operation in accordance with manufacturer's instructions and recommendations.
 4. Provide Engineer with duplicate copies of final alignment and clearance measurements on all rotating or reciprocating equipment. Measurements shall clearly identify each piece of equipment.
 5. Supervise preliminary operation of equipment and necessary adjustments.
 6. Fully instruct Owner's operating personnel in operation and maintenance of equipment.
 7. Witness acceptance tests and assist in their performance.
- B. Presence of Service Engineer will in no way relieve Contractor of any responsibility assumed under Agreement.
- C. Provide services of Service Engineer on site for a minimum of 14 days, including 3 round trips from point of origin to site. Contractor shall include in their firm lump sum price additional days and round trips as necessary to complete Service Engineer's responsibilities defined in this Specification. ⁽¹⁾
- D. Work and abilities of Service Engineer shall be subject to review of Owner. If Owner determines that any Service Engineer is not properly qualified, Contractor shall replace Service Engineer upon written notification by Owner.
- E. Contractor shall provide continuity in assignment of Service Engineer to Work. In event substitution of Service Engineer is made which is not at request of Owner, substitute's time for "familiarization" shall be at Contractor's expense.
- F. Service Engineer shall make trips only with approval of Owner, shall report in person daily to Resident Project Representative while at site, and shall submit written record of time spent at site and report on results of trip to site to Resident Project Representative. Per diem unit adjustment price is based on 8 hours at site each day and includes out-of-pocket expenses at site. Only that time spent by Service Engineer at site with Owner's approval shall be credited against total service day as estimated in Agreement. Hours worked in excess of normal 8 hours in any day will be paid for at one-eighth of per diem rate per hour.
- G. If any of Service Engineer's time spent at site or if any of his trips to site are required to make corrections to equipment supplied under Agreement resulting from defective design, material or workmanship used in manufacture of equipment, such time and trips will be at Contractor's expense and will not be counted against number of working days or trips specified, nor will unit adjustment prices apply.

⁽¹⁾ See Development of Contract Price

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

1.01 FIELD PERFORMANCE TESTS

- A. It is intent of Engineer to conduct, simultaneously, performance tests on all heat cycle and electric generating equipment components. These include steam generator, induced draft fan, primary air fan, secondary air fan, turbine-generator, condenser, feedwater heaters, circulating water pumps, condensate pumps, boiler feed pumps, and related equipment.
- B. These performance tests will be scheduled as soon as practicable but not later than 180 days after all associated equipment have been placed in "on-line" operating service and proved capable for continuous normal operation. Shutdowns of limited duration for normal operational checks, inspections, and adjustments will not be considered as causing equipment to be incapable of continuous operation.
- C. Delayed testing.
 - 1. If any individual equipment component is operable but is not declared ready for testing within time limit stated above and cannot be tested during initial scheduled performance tests, delayed performance tests will be conducted upon these equipment at later scheduled date.
 - 2. All costs incidental to conducting delayed performance tests, except for cost of fuel, water, and Owner's operating personnel, shall be borne by Contractor responsible for equipment which are not ready for testing at time of initial performance tests.
- D. Performance tests:
 - 1. Contractor shall be responsible for each equipment component and shall notify Engineer in writing when installation of its equipment is considered to be complete, in good operating condition, and ready for performance tests.
 - a. This notice shall not be given until such time as all designed operational functions have been positively proved in actual operation or by simulated operational tests.
 - b. Simulated operational tests shall be made only when it is impractical to conduct an actual "in operation" test.
 - c. When simulated operational test involves sensing device, test shall establish operational ability of sensing device.
 - 2. Engineer will coordinate between concerned contractors and will establish schedule for performance tests. Upon establishment of test schedule, Engineer will give minimum of 10 days' notice to all concerned parties.
 - 3. Such tests as are deemed necessary by Engineer to establish that equipment function properly and that guarantees are met will be conducted by Engineer.
 - 4. Owner will furnish fuel, oil, water, and operating personnel for tests.
 - 5. Contractor shall witness tests and assist in their performance.
 - 6. Station instruments, meters, pressure gages, and thermometers, supplemented by necessary portable test instruments, will be used for tests.
 - 7. All costs for initial performance tests, except for costs of Contractor's personnel, will be borne by Owner.
- E. If guaranteed performance is not achieved in initial or delayed performance tests, Contractor shall make necessary changes and adjustments to equipment at no cost to Owner and notify Engineer when ready for retesting or supplemental testing.
- F. Retesting or supplemental testing:
 - 1. Engineer, after giving notice, will perform retesting or supplemental testing it deems necessary to further check performance of equipment.
 - 2. All costs, except for costs of fuel, oil, water, and Owner's operating personnel, shall be borne by Contractor.
 - 3. Owner and Engineer will each render bill to be paid by Contractor covering costs incurred by retesting or supplemental testing, except as noted herein.

- G. If there is serious question or disagreement regarding accuracy of test results and Contractor considers tests of greater refinement necessary or desirable, Owner, at Contractor's request, may direct that further tests be conducted in accordance with ASME Power Test Codes. If so directed:
1. Contractor shall make arrangements and provide facilities necessary for performance of ASME Power Test Codes tests.
 2. Owner will furnish fuel, oil, water, and operating personnel for tests.
 3. Contractor shall witness and assist in performance of tests.
 4. Owner shall reimburse Contractor for actual cost of labor and materials for furnishing and installing testing facilities only, as listed on itemized statement of costs to be submitted by Contractor, only if ASME Power Test Codes tests reveal that equipment are performing in accordance with guarantees.
 5. If ASME Power Test Codes tests indicate that equipment are not performing in accordance with guarantees, all costs of Owner, Engineer, and Contractor incidental to ASME Power Test Codes tests, except for fuel, water, and Owner's operating personnel, shall be borne by Contractor.
 6. Billings to Contractor for Owner's or Engineer's costs for delayed testing, retesting, and supplemental testing, and ASME Power Test Codes testing as specified hereinbefore, shall be paid directly to Owner or Engineer, as appropriate, within 30 calendar days from receipt by Contractor. Contractor's failure to pay such billings shall be cause for withholding final payment in amount equal to such costs.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Welding requirements.
- B. Procedure qualification.
- C. Performance qualification.
- D. Submittals.

1.02 WELDING REQUIREMENTS

- A. Welding shall be performed by qualified welding operators using procedures which have been qualified in accordance with applicable codes and standards:
 - 1. ANSI B31.1 Code for Pressure Piping.
 - 2. ASME Boiler and Pressure Vessel Code.
 - 3. AWS D1.1 Structural Welding Code. ⁽¹⁾

1.03 PROCEDURE QUALIFICATION

- A. Contractor, Subcontractor, or fabricator performing welding under jurisdiction of referenced codes shall be responsible for obtaining and qualifying welding procedures. Structural welding procedures conforming to AWS D1.1 are prequalified as defined in AWS D1.1, Chapter 5 and Appendix E.
- B. Contractor shall maintain records, and make available to Owner when requested, certifying successful completion of procedure qualification tests.

1.04 PERFORMANCE QUALIFICATION

- A. Contractor, Subcontractor, or fabricator performing welding under jurisdiction of referenced codes shall be responsible for testing and qualifying its welding operators in accordance with applicable codes, using qualified procedures.
- B. Unless welding operators have been previously qualified by Contractor within last 6 months and have been continuously employed as welders by Contractor following qualification, requalification tests must be performed.

1.05 SUBMITTALS

- A. Except for procedures exempted to AWS D1.1, Section 5.1, submit 1 copy of each welding procedure to Engineer with certificate demonstrating successful qualification of welding procedures for each welding process performed: AWS D1.1 - Forms E-1, E-2, E-3, or ASME QW-483.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

⁽¹⁾ See Exceptions and Clarifications

PART 1 GENERAL

PSC Request 1a.
Attachment No. 9
PAGE 64

1.01 SECTION INCLUDES

- A. Products.
- B. Product delivery requirements.
- C. Product storage and handling requirements.
- D. Product options.
- E. Product substitution procedures.

1.02 PRODUCTS

- A. Products include material, equipment, and systems.
- B. Provide products of qualified manufacturers suitable for intended use⁽¹⁾. Provide products of each type by a single manufacturer unless specified otherwise.

1.03 PRODUCT DELIVERY REQUIREMENTS

- A. Transport and handle products in accordance with manufacturer's instructions.
- B. Provide 30 days' notice of preshipment inspection.
- C. Contractor shall give Owner at least 15 days' prior written notice of date when equipment will be ready for shipment and manner of shipment
- D. Submit packing lists and lists of items shipped loose 15 days prior to shipment.
- E. Contractor shall require carrier to give Owner not less than 48 hours notice by telephone of anticipated hour of delivery.
- F. No payments will be made for delivered equipment unless Contractor's storage requirements have been provided to Owner.

1.04 PRODUCT PACKAGING AND HANDLING REQUIREMENTS

- A. Package and protect products in accordance with manufacturers' instructions.
- B. Package with seals and labels intact and legible.
- C. Package sensitive products in weathertight, climate controlled enclosures in an environment favorable to product.
- D. Packaging of equipment shall include provision of desiccant between covers and equipment and inside equipment as applicable. Desiccant shall be of type permitting visual determination of condition of desiccant. Replace desiccant if it becomes ineffective prior to delivery.

1.05 PRODUCT OPTIONS

- A. Within 30 days after effective date of Contract, submit complete list of products proposed, with name of manufacturer, trade name, and model.
 - 1. Products specified only by reference standard: Any product meeting that standard.

⁽¹⁾ See Exceptions and Clarifications

2. Products specified by naming several manufacturers: Products of any named manufacturer meeting specifications.
3. Products specified by naming one or more manufacturers and or equal: Submit request for substitution for any manufacturer not specifically named.
4. Products specified by naming only one manufacturer: No option.

1.06 PRODUCT SUBSTITUTION PROCEDURES

- A. Engineer will consider requests for Substitutions only within 30 days after effective date of Contract.
- B. Substitutions may be considered when a product becomes unavailable through no fault of the Contractor.
- C. Document each request with complete data substantiating compliance of proposed Substitution with Equipment Contract.
- D. Request constitutes representation that Contractor:
 1. Has investigated proposed product and determined that it meets or exceeds quality level of specified product.
 2. Will provide same warranty for Substitution as for specified product.
 3. Will coordinate installation and make changes to other Work which may be required for Work to be complete with no additional cost to Owner.
 4. Waives claims for additional costs or time extension which may subsequently become apparent.
- E. Substitutions will not be considered when they are indicated or implied on Shop Drawing or Product Data submittals, without separate written request, or when acceptance will require revision to the Contract Documents.
- F. Substitution submittal procedure:
 1. Submit 3 copies of request for Substitution for consideration. Limit each request to one proposed Substitution.
 2. Submit Shop Drawings, Product Data, and certified test results attesting to the proposed product equivalence. Burden of proof is on proposer.
 3. Engineer will notify Contractor in writing of decision to accept or reject request.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PSC Request 1a.
Attachment No. 9
PAGE 66

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Closeout procedures.
- B. Project record documents.
- C. Spare parts and maintenance products.

1.02 CLOSEOUT PROCEDURES

- A. Submit written certification that Equipment Contract has been reviewed, apparatus has been inspected, and that apparatus is complete in accordance with Equipment Contract and ready for Owner's inspection.
- B. Provide submittals to Owner required by governing or other authorities.
- C. Submit final Application for Payment identifying total adjusted Contract Sum, previous payments, and sum remaining due.

1.03 PROJECT RECORD DOCUMENTS

- A. Maintain one set of following record documents; record actual revisions to Work:
 - 1. Drawings.
 - 2. Specifications.
 - 3. Addenda.
 - 4. Change Orders and other modifications to the Contract.
 - 5. Reviewed Shop Drawings, Product Data, and Samples.
 - 6. Manufacturer's instruction for assembly, installation, and adjusting.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress, not less than weekly.
- E. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:
 - 1. Manufacturer's name and product model and number.
 - 2. Product substitutions or alternates utilized.
 - 3. Changes made by Addenda and modifications.
- F. Record Drawings and Shop Drawings:
 - 1. Legibly mark each item to record actual "as-built" conditions.
 - 2. Submit Record Drawings and final Shop Drawings in electronic format using AutoCAD software, as applicable.
- G. Submit documents to Owner with claim for final Application for Payment.

1.04 SPARE PARTS AND MAINTENANCE PRODUCTS

- A. Provide products, spare parts, and maintenance materials in quantities specified in each Section, in addition to that required for completion of Work. Coordinate with Owner, deliver to Project Site and obtain receipt prior to final payment.

PART 1 GENERAL

PSC Request 1a.
Attachment No. 9
PAGE 68

1.01 SECTION INCLUDES

- A. Operating and maintenance data requirements.
- B. Quality assurance.
- C. Form of submittals.
- D. Content of manual.
- E. Manual for equipment and systems.
- F. Submittal schedule.
- G. Instruction of Owner's personnel.

1.02 OPERATING AND MAINTENANCE DATA REQUIREMENTS

- A. Compile product data and related information appropriate for Owner's maintenance and operation of equipment furnished under this Contract.
- B. Prepare operating and maintenance data as specified in this section and as referenced in other pertinent sections of Specifications.
- C. Instruct Owner's personnel in maintenance of products and in operation of equipment and systems.

1.03 QUALITY ASSURANCE

- A. Preparation of data shall be done by personnel:
 - 1. Trained and experienced in maintenance and operation of described products.
 - 2. Familiar with requirements of this section.
 - 3. Skilled as technical writers to extent required to communicate essential data.
 - 4. Skilled as draftsmen competent to prepare required drawings.

1.04 FORM OF SUBMITTALS

- A. Prepare data in form of an instructional manual for use by Owner's personnel.
- B. Format:
 - 1. Size 8-1/2" x 11".
 - 2. Paper: 20 lb minimum, white, for typed pages.
 - 3. Text: Manufacturer's printed data, or neatly typewritten.
 - 4. Drawings:
 - a. Provide reinforced punched binder tab, bind in with text.
 - b. Fold larger drawings to size of text pages.
 - 5. Provide fly-leaf for each separate product, or each piece of operating equipment.
 - a. Provide typed description of product, and major component parts of equipment.
 - b. Provide indexed tabs.
 - 6. Cover: Identify each volume with typed or printed title "OPERATING AND MAINTENANCE INSTRUCTIONS." Refer to diagram at end of this Section. List:
 - a. Title of Project.
 - b. Identity of separate structure as applicable.
 - c. Identity of general subject matter covered in manual.
 - 7. Binders:

- a. Commercial quality post-type binders with durable and cleanable plastic covers.
 - b. Maximum size: 3".
 - c. When multiple binders are used, correlate data into related consistent groupings.
- PSC Request 1a.
Attachment No. 9
PAGE 69

1.05 CONTENT OF MANUAL

- A. Neatly typewritten table of contents for each volume, arranged in systematic order.
 - 1. Contractor, name of responsible principal, address, and telephone number.
 - 2. List of each product required to be included, indexed to content of volume.
 - 3. List, with each product, name, address, and telephone number of:
 - a. Subcontractor or installer.
 - b. Maintenance contractor, as appropriate.
 - c. Identify area of responsibility of each.
 - d. Local source of supply for parts and replacement and list of recommended spare parts.
 - 4. Identify each product by product name and other identifying symbols as set forth in Equipment Contract, including nameplate information and shop order numbers for each item of equipment furnished.
- B. Product data:
 - 1. Include only those sheets which are pertinent to specific product.
 - 2. Annotate each sheet to:
 - a. Clearly identify specific product or part installed.
 - b. Clearly identify data applicable to installation.
 - c. Delete references to inapplicable information.
- C. Drawings:
 - 1. Supplement product data with Drawings as necessary to clearly illustrate:
 - a. Relations of component parts of equipment and systems.
 - b. Control and flow diagrams.
 - 2. Coordinate Drawings with information in Project record documents to assure correct illustration of completed installation.
 - 3. Do not use Project record documents as maintenance Drawings.
- D. Written text, as required to supplement product data for particular installation.
 - 1. Organize in consistent format under separate headings for different procedures.
 - 2. Provide logical sequence of instructions for each procedure.
- E. Copy of each warranty, Bond, and service contract issued. Provide information sheet for Owner's personnel, giving:
 - 1. Proper procedures in event of failure.
 - 2. Instances which might affect validity of warranties or Bonds.

1.06 MANUAL FOR EQUIPMENT AND SYSTEMS

- A. Submit 15 hard copies and 1 electronic copy on compact disc (CD) of complete manual in final form.
- B. Contents, for each unit of equipment and system, as appropriate:
 - 1. Description of unit and component parts:
 - a. Function, normal operating characteristics, and limiting conditions.
 - b. Performance curves, engineering data, and tests.
 - c. Complete nomenclature and commercial number of replaceable parts.
 - 2. Operating procedures:
 - a. Startup, break-in, routine, and normal operating instructions.
 - b. Regulation, control, stopping, shutdown, and emergency instructions.
 - c. Summer and winter operating instructions.
 - d. Special operating instructions.
 - 3. Maintenance procedures:
 - a. Routine operations.

- b. Guide to "trouble-shooting."
 - c. Disassembly, repair, and reassembly.
 - d. Alignment, adjusting, and checking.
 4. Servicing and lubrication schedule: List of lubricants required.
 5. Manufacturer's printed operating and maintenance instructions.
 6. Description of sequence of operation by control manufacturer.
 7. Original manufacturer's parts list, illustrations, assembly drawings, and diagrams required for maintenance.
 - a. Predicted life of parts subject to wear.
 - b. Items recommended to be stocked as spare parts. Provide part numbers for recommended spare parts.
 8. As-installed control diagrams by controls manufacturer.
 9. Chart of valve tag numbers, with location and function of each valve.
 10. List of original manufacturer's spare parts, manufacturer's current prices, and recommended quantities to be maintained in storage.
 11. Other data as required under pertinent sections of Specifications.
- C. Content, for each electrical and electronic system, as appropriate.
1. Description of system and component parts:
 - a. Function, normal operating characteristics, and limiting conditions.
 - b. Performance curves, engineering data, and tests.
 - c. Complete nomenclature and commercial number of replacement parts.
 2. Circuit directories of panelboards:
 - a. Electrical service.
 - b. Controls.
 - c. Communications.
 3. As-installed wiring diagrams.
 4. Operating procedures:
 - a. Routine and normal operating instructions.
 - b. Sequences required.
 - c. Special operating instructions.
 5. Maintenance procedures:
 - a. Routine operations.
 - b. Guide to "trouble-shooting."
 - c. Disassembly, repair, and assembly.
 - d. Adjustment and checking.
 6. Manufacturer's printed operating and maintenance instructions.
 7. List of original manufacturer's spare parts, manufacturer's current prices, and recommended quantities to be maintained in storage.
 8. Other data as required under pertinent sections of Specifications.
- D. Prepare and include additional data when need for such data becomes apparent during instruction of Owner's personnel.
- E. Additional requirements for operating and maintenance data: Respective sections of Specifications.

1.07 SUBMITTAL SCHEDULE

- A. Preliminary draft: Submit 2 copies by date indicated in "Document Submittal Schedule," Section 01335. Engineer will review and provide comments.
- B. Submit specified number of copies of approved data in final form by date indicated in "Document Submittal Schedule," Section 01335.

1.08 INSTRUCTION OF OWNER'S PERSONNEL

- A. Prior to final inspection or acceptance, fully instruct Owner's designated operating and maintenance personnel in operation, adjustment and maintenance of products, equipment and systems. Training shall include classroom and hands-on instruction.
- B. Manual for equipment and systems shall constitute basis of instruction. Review contents of manual with personnel in full detail to explain all aspects of operations and maintenance.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

OPERATING AND MAINTENANCE MANUAL COVER DIAGRAM

<p>EAST KENTUCKY POWER COOPERATIVE</p>	<p>EAST KENTUCKY POWER COOPERATIVE SPURLOCK STATION UNIT 4</p>	<p>36 pt 36 pt</p>
<p>SPURLOCK STATION UNIT 4</p>		<p>24 pt 24 pt</p>
<p>FANS</p>	<p>OPERATING AND MAINTENANCE MANUAL FOR FANS</p>	<p>36 pt 36 pt 36 pt</p>
	<p>VOLUME NUMBER*</p>	<p>36 pt</p>
<p>CONTRACT F46</p>		
	<p>MANUFACTURER'S NAME MANUFACTURER'S ADDRESS</p>	<p>24 pt 24 pt</p>
<p>VOLUME NUMBER*</p>	<p>STANLEY CONSULTANTS, INC. MUSCATINE, IOWA</p>	<p>14 pt 14 pt</p>

SPINE

COVER

1. Imprinting shall be in Arial font.
 2. Spine printing shall be 12-point.
 3. Cover printing shall be in point sizes indicated.
- * If more than one volume is necessary, imprint cover with volume numbers.

Contract F71 – Ash Handling Equipment – UCC

Contract F71 is for the Ash Handling Equipment. This contract was awarded to the United Conveyor Corporation on December 5, 2006. The Letter of Intent which authorizes the contractor to begin work based upon agreed terms was sent to UCC on December 7, 2006. The conformed contract is the final document that captures all of the agreed terms and scope of work into one document. This document has not been finalized for the Contract F71. A copy of the Letter of Intent has been attached. EKPC has not made any payments to UCC as of the end of 2006.



EAST KENTUCKY POWER COOPERATIVE

H.L. SPURLOCK POWER STATION

December 7, 2006

PSC Request 1a.
Attachment No. 10
PAGE 2

Mr. Jason Kaull
Systems Engineer
United Conveyor Corporation
2100 Norman Drive West
Waukegan, IL 60085

Dear Mr. Kaull:

Subject: East Kentucky Power Cooperative, Inc.
Spurlock Power Station Unit 4
Letter of Intent – EKPC Contract #F71

East Kentucky Power Cooperative, Inc. (EKPC) is pleased to inform you that the EKPC Board of Directors has approved the award of a contract to United Conveyor Corporation (UCC) for providing ash-handling equipment as described in our specification of July 2006 and UCC's Proposal #Q04160, with negotiated terms and price of [REDACTED]

Consider this letter your release to proceed with the necessary actions to move forward with this project. An executed conformed contract will be mailed out soon.

Should you have any questions, please don't hesitate to call Diana Pulliam, Carl Daugherty Jr. or Sam Holloway at (606) 883-3367 ext. 452, 419, or 415, respectively.

Sincerely,

Randy Dials
Vice President
Production Division

RD:dwp

c: Rick Sparrow – The Lathrop-Trotter Company
Gerald W. Long – UCC
Larry Shell – Stanley
Sam Holloway
Carl Daugherty Jr.
Diana Pulliam

H.L. SPURLOCK POWER STATION

1301 West Second Street
PO Box 398
Maysville, Kentucky 41056
Tel. (606) 883-3166
Fax: (606) 883-3345
<http://www.ekpc.com>

Conformed Contract

for

**Contract F101 – Alloy Piping
Spurlock Station - Unit 4
Maysville, Kentucky**

Between

**East Kentucky Power Cooperative, Inc.
Winchester, Kentucky**

And

**BendTec Inc.
Duluth, Minnesota**

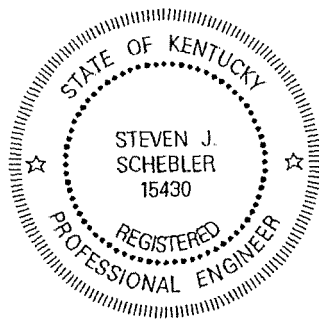
October 2005

Project Manual

for

**Contract F101 – Alloy Piping
Spurlock Station - Unit 4
Maysville, Kentucky**

**East Kentucky Power Cooperative
Winchester, Kentucky**



A handwritten signature in black ink that reads "Steven J. Schebler".

January 14, 2005



Stanley Consultants INC.

A Stanley Group Company
Engineering, Environmental and Construction Services - Worldwide

17500.02.00
ms436


CONTRACT F101 – ALLOY PIPING
SPURLOCK STATION - UNIT 4
MAYSVILLE, KENTUCKY

EAST KENTUCKY POWER COOPERATIVE
WINCHESTER, KENTUCKY

<u>TITLE</u>	<u>PAGE</u>
Development of Contract Price	
RUS Form 198, Equipment Contract (Rev. 2-04)	1 thru 11
RUS Form 213, Buy American Certificate (Rev. 2-04)	1
Section 00210 – Supplementary Instructions to Bidders	1 thru 3
Section 00410 – Proposal Form	1 thru 3
Section 00434 – Bidder Data and Information	1 thru 2
Section 00700 – Standard General Conditions of the Equipment Contract	1 thru 8
Certificate Regarding Debarment and Suspension - Primary Tier Covered Transactions	1 thru 2
Lobbying Certification	1
DIVISION 1 GENERAL REQUIREMENTS	
Section 01110 Summary of Work	1 thru 3
Section 01320 Progress Documentation	1 thru 2
Section 01335 Shop Drawings, Product Data, and Samples	1 thru 5
Shop Drawing Transmittal Form	1
Section 01460 Welding Qualifications	1 thru 2
Section 01600 Product Requirements	1 thru 2
Section 01700 Execution Requirements	1 thru 2
DIVISION 15 MECHANICAL	
Section 15181 Alloy Piping	1 thru 4
STANDARD DRAWING LIST	1
STANDARD DRAWINGS	Bound Herein
DRAWING LIST	1
DRAWINGS	Bound Herein

REDACTED

Development of Contract Price

1. Lump Sum Contract Price: 
2. Unit Adjustment Prices: In accordance with Section 00410, Article 4, paragraph 4.1.2.

U.S. Department of Agriculture
Rural Utilities Service

PSC Request 1a.
Attachment No. 11
PAGE 5

EQUIPMENT CONTRACT

NOTICE AND INSTRUCTIONS TO BIDDERS

1. **Scaled proposals for the furnishing and delivering of** plant site near Maysville, Kentucky

known as Spurlock Station Unit 4
of equipment for the rural electric project of East Kentucky Power Cooperative,
RUS designation Kentucky 59 Fayette, (hereinafter called the "Owner") will be received by the Owner on or
before 12:00 4:00 o'clock P.M., January 19, 2005, at its office
at P.O. Box 0707, 4775 Lexington Rd, Winchester, KY 40392-0707 at which time and place the proposals will be
publicly opened and read.

X privately opened. The Owner, subsequent to the bid opening, may elect to conduct clarifying discussions
with the bidder to resolve any questions related to the substance of the bidder's proposal and to arrive at a final
price for a responsive bid.

Any proposals received subsequent to the time specified will be promptly returned to the Bidder unopened.
2. **Obtaining Documents.** The Plans, Specifications, and Construction Drawings, together with all necessary
forms and other documents for bidders may be obtained from the Owner, ~~or from the Engineer~~ _____
_____ at the latter's office at P.O. Box 0707, 4775 Lexington Rd, Winchester, KY 40392-0707
upon the payment of \$0.00, which payment will not be subject to refund. The Plans,
Specifications, and Construction Drawings may be examined at the office of the Owner or at the office of the
Engineer.
3. **Manner of Submitting Proposals.** ~~Proposals and all supporting instruments must be submitted on the forms
furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and
address of the Bidder and the date and hour of the opening of bids must appear on the envelope in which the
Proposal is submitted. Proposals must be completed in ink or typewritten. No alterations or interlineations will
be permitted, unless made before submission, and initialed and dated. The successful Bidder will be required to
execute two additional counterparts of the Proposal. See Section 00210-Supplementary Instructions to Bidders.~~
4. **Due Diligence.** Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have
made a careful examination of the Plans, Specifications, Construction Drawings, and form of Proposal, and
shall review the location and nature of the proposed construction, the transportation facilities, the kind and
character of soil and terrain to be encountered, the kind of facilities required before and during the construction
of the project, general local conditions, environmental and historic preservation considerations and all other
matters that may affect the cost and time of completion of the work. Bidder will be required to comply with all
federal, state, and local laws, rules, and regulations applicable to its performance, including those pertaining to
the licensing of contractors, and the Anti Kick-Back Act of 1986 (41 U.S.C. 51 et seq).
5. **Proposals will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.**
6. **The Time for Delivery of the Equipment is of the essence of the Contract and shall be as specified by the
Engineer in the Proposal.**

7. **Evaluation Factors.** In estimating the lowest cost to the Owner as one of the factors in deciding the award of the Contract, the Owner will consider, in addition to the price quoted in the Proposals, the following:

Compliance with Bid Documents

8. **Debarment Certification.** The Bidder must provide to the Owner a suspension and debarment certificate in the form attached hereto

9. **Contract is Entire Agreement.** The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modifications thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

10. **Minor Irregularities.** The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.

11. **Bid Rejection.** The Owner reserves the right to reject any or all Proposals.

12. **Definition of Terms.** The terms "Administrator" and "Engineer" as used throughout this Contract shall be as defined in Article VI, Section 1, of the Proposal.

East Kentucky Power Cooperative

Owner

By Randy J. Tate

Vice President, Production

Title

January 14, 2005

Date

PROPOSAL

TO:

East Kentucky Power Cooperative, Winchester, Kentucky

(hereinafter called the "Owner")

ARTICLE I--GENERAL

Section 1. Offer to Furnish and Deliver. *The undersigned (hereinafter called the "Bidder") hereby proposes to furnish and deliver the equipment (hereinafter called the "Equipment") described in the Plans, Specifications, and Construction Drawings for the following prices: shown on attached Section 00410-Proposal Form.*

Item: Contract F101 – Alloy Piping Price: _____

Item: _____ Price: _____

The prices of Equipment set forth herein shall include the cost of delivery to

plant site near Maysville, Kentucky

The prices set forth herein do not include any sums which are or may be payable by the Bidder on account of taxes imposed by any taxing authority upon the sale, purchase or use of the Equipment. If any such tax is applicable to the sale, purchase or use of the Equipment hereunder, the amount thereof shall be added to the purchase price and paid by the Owner.

Section 2. Materials and Equipment. *The Bidder agrees to furnish and use in the construction of the project under this Proposal, in the event the Proposal is accepted, only such "fully accepted," "conditionally accepted," and "technically accepted" materials and equipment which have been accepted by RUS as indicated in the current RUS Informational Publication 202-1, "List of Materials Acceptable for Use on Systems of RUS Electrification Borrowers," including revisions adopted prior to the Bid Opening. The use of "conditionally accepted" or "technically accepted" materials and equipment requires prior consent by the Owner or Engineer.*

The Bidder will purchase all materials and equipment outright and not subject to any conditional sales agreements, bailment, lease or other agreement reserving unto the seller any right, title or interest therein. All such materials and equipment shall be new.

Section 3. Description of Contract. *The Notice and Instructions to Bidders, Plans, Specifications, and Construction Drawings, which by this reference are incorporated herein, together with the Proposal and Acceptance constitute the Contract. The Plans, Specifications, and Construction Drawings, including maps, special drawings, and approved modifications in standard specifications are attached hereto and identified as follows:*

Project Manual for Contract F101 – Alloy Piping

Section 4. Due Diligence. *The Bidder has made a careful examination of the Plans, Specifications, and Construction Drawings attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be*

encountered, and the kind of facilities required before and during the construction of the project, and has become acquainted with the labor conditions, federal, state, and local laws, rules, and regulations applicable to its performance.

Section 5. Warranty of Good Faith. *The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.*

ARTICLE II--DELIVERY AND WARRANTY

Section 1. Delivery. *The Bidder shall deliver the Equipment.*

 X within 375 days after receipt of the written order or orders of the Owner.

~~_____ not later than _____, 20_____.~~

The time for delivery shall be extended for the period of any reasonable delay due exclusively to causes beyond the control and without the fault of the Owner, including, but not limited to, acts of God, fires, strikes, and floods.

Section 2. Defective Materials and Workmanship.

- a. *All Equipment furnished hereunder shall be subject to the inspection, tests, and approval of the Owner and the Engineer, and the Bidder shall furnish all information required concerning the nature or source of any Equipment and provide adequate facilities for testing and inspecting the Equipment at the plant of the Bidder.*
- b. *The Equipment furnished hereunder shall become the property of the Owner upon delivery, provided, however, that the Owner or the Engineer, within one year after initial operation of the Equipment, or within the period for which the Equipment is guaranteed, whichever is longer, may reject any Equipment which does not comply with the Specifications attached hereto and made a part hereof or with the guarantees, if any, of the Bidder and the manufacturer. Upon any such rejection, the Bidder shall repair or replace such defective Equipment within a reasonable time after notice in writing from the Owner. If any such defective materials, equipment, or workmanship so replaced or repaired is found to be defective within one year after the completion of the replacement or repair, the Bidder shall replace or remedy such defective materials, equipment, or workmanship. In the event of failure by the Bidder so to do, the Owner may make such replacement and the cost and expense thereof shall be paid by and recoverable from the Bidder. See Section 00700 - Standard General Conditions of the Equipment Contract, Article 8.03.*
- c. *All manufacturers' guarantees of Equipment, if any, shall be transferred and assigned to the Owner upon delivery of any Equipment and before final payment is made for such Equipment. Such guarantees shall be in addition to those required of the Bidder by other provisions of this Contract.*

ARTICLE III--PAYMENT

Section 1. Payments to Bidder.

- a. *Upon the shipment of any Equipment hereunder, the Bidder shall submit to the Owner a detailed statement of the Equipment shipped. The Owner shall, upon receipt of the Equipment, pay the Bidder ninety percent (90%) of the contract price of the Equipment. When the Equipment has been installed, placed in satisfactory operation, tested and accepted by the Owner, the Owner shall make final payments therefor to the Bidder; provided, however, such final payment shall be made not later than _____ days after delivery of the Equipment, unless such acceptance by the Owner shall be withheld because of the fault of the Bidder. See Section 00700 - Standard General Conditions of the Equipment Contract, Article 10.*

- b. *No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.*

ARTICLE IV--PARTICULAR UNDERTAKINGS OF THE BIDDER

The provisions of this Article IV apply to any work performed by the Bidder at the project site.

Section 1. Protection to Persons and Property. *The Bidder shall at all times take all reasonable precautions for the safety of employees on the project and of the public, and shall comply with all applicable provisions of federal, state, and local laws, rules, and regulations and building and construction codes, in addition to the safety rules and procedures of the Owner.*

The following provisions shall not limit the generality of the above requirements:

- a. *The Bidder shall at no time and under no circumstances cause or permit any employee of the Bidder to perform any work upon energized lines, or upon poles carrying energized lines, unless otherwise specified in the Notice and Instructions to Bidders.*
- b. *The Bidder shall transport and store all material in facilities and vehicles which are designed to protect the material from damage. The Bidder shall ensure that all vehicles, trailers, and other equipment used comply with all applicable licensing, traffic, and highway requirements.*
- c. *The Bidder shall conduct its operations to cause the least possible obstruction of public highways.*
- d. *The Bidder shall make good and fully repair all injuries and damages to the project or any portion thereof under the control of the Bidder by reason of any act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence.*
- (i) *To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.*
- (ii) *To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.*
- (iii) *Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.*

- e. Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Engineer or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

Section 2. Insurance. *The Bidder shall take out and maintain throughout the period of its operations at the project site the following types and minimum amounts of insurance:*

- a. *Workers' compensation and employers' liability insurance, as required by law, covering all its employees who perform any of the obligations of the Bidder under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.*
- b. *Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than \$1 million each occurrence, limits for property damage of not less than \$1 million each occurrence, and \$1 million aggregate for accidents during the policy period. A single limit of \$1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.*
- c. *Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than \$1 million per person and \$1 million each occurrence, and property damage limits of \$1 million for each occurrence. A single limit of \$1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.*

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection "b" and "c" of this Section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections "b" and "c" of this Section

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

ARTICLE V--REMEDIES

Section 1. Liquidated Damages. *The time of the delivery of the Equipment is of the essence of the Contract. Should the Bidder neglect, refuse or fail to deliver the Equipment within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due, or which may become due and payable to the Bidder the sum of Five thousand dollars (\$5000.00) per day for each and every day that such delivery is delayed beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full: Provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed. up to a maximum of \$200,000, 10% of the Contract price*

Section 2. Cumulative Remedies. *Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provisions of Section 1 of this Article shall be the exclusive measure of damages for failure by the Bidder to deliver the Equipment within the time herein agreed upon.*

ARTICLE VI--MISCELLANEOUS

Section 1. Definitions.

- a. *The term "Administrator" shall mean the Administrator of the Rural Utilities Service of the United States of America and his or her duly authorized representative or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.*
- b. *The term "Engineer" shall mean the Engineer employed by the Owner, to provide engineering services for the project and said Engineer's duly authorized assistants and representatives.*

Section 2. Materials and Supplies. *In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States or in any eligible country; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. For the purposes of this section, an "eligible country" is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and suppliers to the markets of that country, as determined by the United States Trade Representative. The Bidder agrees to submit to the Owner such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.*

Section 3. Patent Infringement. *The Bidder shall hold harmless and indemnify the Owner ^{and Engineer} from any and all claims, suits and proceedings for the infringement of any patent or patents covering Equipment purchased hereunder.*

Section 4. Compliance with Laws. *The Bidder shall comply with all federal, state, and local laws, rules, and regulations applicable to its performance under the contract and the construction of the project. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the Anti Kick-Back Act of 1986 (41 U.S.C. 51 et seq), and 18 U.S.C. §§ 286, 287, 641, 661, 874, 1001, and 1366, as amended.*

The Bidder represents that to the extent required by Executive Orders 12549 (3 CFR, 1985-1988 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), Debarment and Suspension, and 7 CFR part 3017, it has submitted to the Owner a duly executed certification in the form prescribed in 7 CFR part 3017.

The Bidder represents that, to the extent required, it has complied with the requirements of Pub. L. 101-121, Section 319, 103 Stat. 701, 750-765 (31 U.S.C. 1352), entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and any rules and regulations issued pursuant thereto.

Section 5. Equal Opportunity Provisions.

a. Bidder's Representations.

The Bidder represents that:

It has X, does not have , 100 or more employees, and if it has, that it has X, has not , furnished the Equal Employment Opportunity-Employers Information Report EEO-1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 of September 24, 1965, and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than \$10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than \$10,000, the Bidder will file such report, as required by law, and notify the owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

- (1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.*
- (2) The Bidder will, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.*
- (3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*
- (4) The Bidder will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.*
- (5) The Bidder will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.*
- (6) In the event of the Bidder's noncompliance with the Equal Opportunity Clause of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and the Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965,*

and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

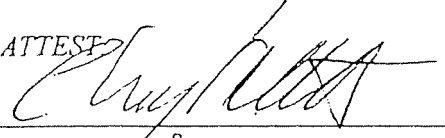
(7) *The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Bidder will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, Provided, however, that in the event Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.*

c. *Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.*

Section 9. Successors and Assigns. *Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto. The Owner and Bidder acknowledge that this Contract is assigned to the Government, acting through the Administrator, for security purposes under the Owner's mortgage and security instrument.*

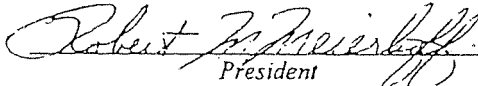
Section 10. Independent Contractor. *The Bidder shall perform the work as an independent contractor, not as a subcontractor, agent, or employee of the Owner. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.*

Section 11. Approval by the Administrator: This contract does X, does not X, require approval of the Administrator. No acceptance of a Proposal for a contract upon which approval of the Administrator is required shall become effective until the contract has been approved by the Administrator; provided that no obligation shall arise hereunder unless such approval is given within one-hundred twenty (120) days after the date set for the opening of the proposals. The acceptance of a Proposal for a contract upon which approval of the Administrator is not required shall become effective the date of acceptance by the Owner.

ATTEST

Secretary

Dated JANUARY 25, 2005

BENDTEC, INC
Bidder


President

366 GARFIELD AVE
Address

DUOTA, MN
55801

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

REDACTED

ACCEPTANCE

Subject to the approval of the Administrator, if approval of the Administrator is required, the Owner hereby accepts the foregoing Proposal of the Bidder, BendTec, Inc.

for the following Equipment:

Alloy Piping - Spurlock Unit 4

for a total contract price of  dollars.)

East Kentucky Power Cooperative, Inc.

By Roy M. Falk
Owner
President

Della E. Damon Forand
Secretary
on behalf of the Corporate Secretary

February 8, 2005
Date of Contract

1.01 EXAMINATION OF BIDDING DOCUMENTS AND POINT OF DESTINATION

- A. Upon request, Owner will provide Bidder access to the Point of Destination to conduct such investigations, examinations, tests and studies as Bidder deems necessary for submission of a Bid.
- B. It is the responsibility of each Bidder before submitting a Proposal to:
 - 1. Examine and carefully study the Bidding Documents, including any Addenda and the related data identified in the Bidding Documents
 - 2. If specified, or if, in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Equipment and Special Services, visit the Point of Destination to become familiar with the local conditions.
 - 3. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or the furnishing of Equipment and Special Services.
 - 4. Carefully study and correlate the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination, with the Bidding Documents.
 - 5. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
 - 6. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Equipment and Special Services.
- C. Submission of a Proposal will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Proposal is premised upon furnishing Equipment and Special Services required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Equipment and Special Services.

1.02 INTERPRETATIONS

- A. Questions about the meaning or intent of the Bidding Documents shall be submitted to Engineer in writing.
- B. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents.
- C. Questions received less than 5 days prior to the date for opening of Proposals will not be answered. Only answers in the Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- D. Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.
- E. Owner will not consider requests for time extensions of the bidding period.

1.03 "OR-EQUAL" ITEMS

- A. The Contract, if awarded, will be on the basis of material and equipment specified or described in the Bidding Documents without consideration of possible "or-equal" items. Whenever it is specified or described in the Bidding Documents that an "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submittal of any such application by Contractor and consideration by Engineer is set forth in the General Conditions and may be supplemented in the General Requirements.

1.04 SUBMITTAL OF PROPOSALS

- A. Each prospective Bidder is furnished one copy of the Bidding Documents. Proposal Form is to be completed and submitted with Section 00434 – Bidder Data and Information.
- B. Original Proposal signed in blue ink, one copy of Proposal, and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner at the following address:

East Kentucky Power Cooperative
Attention: Mr. Craig Johnson
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707
Telephone: 606-883-3367859-744-4812
Fax: 606-883-3438859-744-6008
E-mail: craig.johnson@ekpc.comcoop

- C. Two duplicate copies of the Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Engineer at the following address:

Stanley Consultants, Inc.
Attention: Mr. Larry Shell
225 Iowa Avenue
Muscatine, IA 52761
Telephone: 563.264.6455
Fax: 563.264.6658
E-mail: shelllarry@stanleygroup.com

- D. The name and address of the Bidder and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be filled in in ink or typewriter. No alterations or interlineations will be permitted, unless made before submission and initialed and dated
- E. Proposal shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Proposal Form.
- F. Facsimile copies of Proposals will not be accepted.

1.05 BASIS OF BID, COMPARISON OF BIDS

- A. Single Lump Sum:
 - 1. Bidder shall submit a Proposal on a lump sum basis as set forth in the Proposal Form.
 - 2. For determination of the apparent low Bidder, Proposals will be compared on the basis of the lump sum.
 - 3. Discrepancies between words and figures will be resolved in favor of words.

1.06 MODIFICATION OR WITHDRAWAL OF BID

- A. Proposal may be modified or withdrawn by a document executed in the manner that a Proposal must be executed, and delivered to the place where Proposals are to be submitted prior to the date and time for the opening of Proposals.
- B. If, within 24 hours after Proposals are opened, any Bidder files a signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, it may withdraw its Bid, and its Proposal security

will be returned. Thereafter, if the Equipment and Special Services are rebid, that Bidder will be disqualified from further bidding on the Equipment and Special Services to be furnished under the Contract Documents.

END OF SECTION 00210

PSC Request 1a.
Attachment No. 11
PAGE 18

PROJECT AND CONTRACT IDENTIFICATION

This Proposal pertains to Contract EF101 – Alloy Piping for the ~~E. A. Gilbert Unit 3~~ **Spurlock Station Unit 4** Project, for East Kentucky Power Cooperative, Inc.

Article 1. BID RECIPIENT

- 1.1 This Proposal is submitted to: East Kentucky Power Cooperative, Inc.
Attn: Mr. Craig Johnson
P. O. Box 0707
4475 Lexington Road
Winchester, KY 40392-0707
- 1.2 The undersigned Bidder proposes and agrees, if this Proposal is accepted, to enter into a Contract with Owner in the form included in the Bidding Documents to furnish the Equipment and Special Services as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Proposal and in accordance with the other terms and conditions of the Bidding Documents.

Article 2. BIDDER'S ACKNOWLEDGMENTS

- 2.1 Bidder accepts all of the terms and conditions of the Notice and Instructions to Bidders, including without limitation those dealing with the disposition of Proposal security. The Proposal will remain subject to acceptance for 90 days after the Proposal opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.
- 2.2 Bidder accepts the provisions of the Equipment Contract as to liquidated damages in the event of its failure to furnish the Equipment and Special Services in accordance with the schedule set forth in the Equipment Contract.

Article 3. BIDDER'S REPRESENTATIONS

- 3.1 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:
 - 3.1.1 Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged.

Addendum No.	Addendum Date
None	N/A
_____	_____
_____	_____

- 3.1.2 If specified, or if in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Equipment and Special Services, Bidder has visited the Point of Destination and become familiar with and is satisfied as to the local conditions that may affect cost, progress, or the furnishing of Equipment and Special Services.
- 3.1.3 Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and the furnishing of Equipment and Special Services.
- 3.1.4 Bidder has carefully studied and correlated the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination with the Bidding Documents.

REDACTED

- 3.1.5 Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- 3.1.6 Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Equipment and Special Services for which this Proposal is submitted.
- 3.1.7 Bidder further represents that this Proposal is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

Article 4. BASIS OF BID

4.1 Bidder will furnish the Equipment and Special Services in accordance with the Contract Documents for the following price(s):

4.1.1 Lump Sum Base Bid Proposal Price:

REDACTED

(words)
REDACTED

(\$ **REDACTED**)
(figures)

4.1.2 Unit Adjustment Prices: Required Base Proposal quantities of the items listed below are set forth in the Specifications. If increases or decreases in these quantities occur, the Contract Price is to be adjusted by Change Order on the basis of the following. Adjustment prices are subject to acceptance by Owner, and rejection of one or more adjustment prices will not invalidate acceptance of this Bid.

Item	Unit	Unit Adjustment Price
Main Steam:		
Pipe, 18-219.4" 13.3 in. ID	LF	\$ 1,164
Pipe, 14.1" 9.6 in. ID	LF	\$ 672
Shop weld, pipe, 18-219.4" 13.3 in. ID	Ea.	\$ 1,339
Shop weld, pipe, 14.1" 9.6 in. ID	Ea.	\$ 1,092
Bend, 18-219.4" 3 diameter 13.3 in. ID	Ea.	\$ 16,017*
Bend, 14.1", 3 diameter 9.6 in. ID	Ea.	\$ 6,726*
Bend, 18-219.4" 45°, 3 diameter 13.3 in. ID	Ea.	\$ 8,334*
Hot Reheat:		
Pipe, 27-528.9" 25.25 in. ID	LF	\$ 1,658
Pipe, 20"	LF	\$ 570
Shop weld, pipe, 27-528.9" 25.25 in. ID	Ea.	\$ 995
Shop weld, pipe, 20"	Ea.	\$ 585
Bend, 27-528.9" 3 diameter 25.25 in. ID	Ea.	\$ 24,571*
Bend, 20", 3 diameter	Ea.	\$ 6,183*
Bend, 27-528.9" 45°, 3 diameter 25.25 in. ID	Ea.	\$ 12,588*
Cold Reheat:		
Pipe, 28"	LF	\$ 818

*Bend price includes pipe.

Item	Unit	Unit Adjustment Price
Pipe, 24"	LF	\$ 92
Shop weld, pipe, 28"	Ea.	\$ 908
Shop weld, pipe, 24"	Ea.	\$ 540
Elbow, 28", 3 diameter	Ea.	\$ 3,419
Elbow, 24", 3 diameter	Ea.	\$ 2,512
Elbow, 24", 45° long radius	Ea.	\$ 1,776
Elbow, 28" long radius 90 degree	Ea.	\$ 2,764

Article 5. TIME OF COMPLETION

- 5.1 Bidder agrees that the furnishing of Equipment and Special Services will conform to the schedule set forth in Equipment Contract.
- 5.1 Equipment is scheduled for operation during the month of ~~November 2004~~ April 2008.

Article 6. ATTACHMENTS TO THIS BID

- 6.1 The following documents are attached to and made a condition of this Bid:
 - 6.1.1 Exceptions and Clarifications: Attach a separate sealed envelope labeled "Exceptions and Clarifications" to outside of sealed Bid, containing listing on Bidder's letterhead of all exceptions and clarifications to Contract Documents, referencing page number and paragraph of Contract Documents involved. If there are no exceptions or clarifications, include statement to such effect in Proposal envelope. Excessive exceptions or clarifications may render Proposal unresponsive. Bidder agrees to all provisions contained in Contract Documents unless specifically listed as an exception or clarification. If Bidder submits drawings, printed forms, standard statements, or other revisions which conflict with Contract Documents, the Contract Documents will prevail.
 - 6.1.2 Section 00434 – Bidder Data and Information.
 - 6.1.3 Data requested in Section 01335, Document Submittal Schedule

END OF SECTION 00410

STANDARD GENERAL CONDITIONS FOR THE EQUIPMENT CONTRACT

ARTICLE 1- DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

A. Whenever used in the Bidding Requirements or Equipment Contract and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to the singular or plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Equipment Contract include references to identified articles and paragraphs, and the titles of other documents or forms

1. *Addenda*--Those written or graphic instruments issued prior to the opening of Proposals in accordance with the Bidding Requirements which clarify or change the Bidding Requirements or the proposed Equipment Contract.

2. *Application for Payment*--The form acceptable to Owner which is used by Contractor in requesting progress and final payments and which is accompanied by such supporting documentation as is required by the Contract Documents.

3. *Bidder*--A person who submits a Proposal directly to Owner.

4. *Bidding Documents*--The Bidding Requirements and the proposed Equipment Contract (including all Addenda).

5. *Bidding Requirements*--The Notice and Instructions to Bidders, Form of Proposal security, if any, and Proposal Form with any supplements.

6. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision to the Equipment Contract or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Contract.

7. *Claim*--A written demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract.

8. *Contract*--The entire and integrated written agreement between Owner and Contractor concerning the Equipment and Special Services. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

9. *Contractor*--The person furnishing the Equipment and Special Services.

10. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Equipment Contract, RUS Form 198, Rev. 2-04, Addenda (which pertain to the Contract Documents), Contractor's Proposal (including documentation accompanying the Proposal and any post Proposal documentation submitted prior to the Notice of Award), the Notice to Proceed, the Bonds, these General Conditions, the Specifications and the Drawings as the same are more specifically identified in the Contract Documents, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Engineer's written interpretations and clarifications issued on or after the Effective Date of the Contract. Only printed or hard copies of the items listed in the Contract are part of the Contract Documents. Files in electronic media format of text, data, graphics, and the like are not part of the Contract Documents, and may not be relied on by Contractor. Approved Shop Drawings and other Contractor's submittals are not part of the Contract Documents.

11. *Contract Price*-- The moneys payable by Owner to Contractor for furnishing the Equipment and Special Services in accordance with the Equipment Contract as stated in the Contract

12. *Contract Times*--The times stated in the Contract by which the Equipment must be delivered and Special Services must be furnished.

13. *Drawings*--That part of the Equipment Contract prepared or approved by Engineer, which graphically shows the scope, intent, and character of the Equipment and Special Services to be furnished by Contractor.

14. *Effective Date of the Contract* --The date indicated in the Contract on which it becomes effective, but if no such date is indicated, it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.

15. *Engineer* -- Stanley Consultants, Inc.

16. *Equipment*--The -tangible and movable personal property that is described in the Equipment Contract, regardless of whether the property s to be later attached to realty.

17. *Field Order*--A written order issued by Engineer which requires minor changes in the Equipment or Special Services but which does not involve a change in the Contract Price or Contract Times.

18. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

19. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction

20. *Milestone*--A principal event specified in the Equipment Contract relating to an intermediate completion date or time prior to the Contract Times.

21. *Notice of Award*--The written notice by Owner to the apparent Successful Bidder stating that upon timely compliance by the apparent Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Contract.

22. *Notice to Proceed*-- A written notice given by Owner to Contractor fixing the date on which the Contract Times commence to run and on which Contractor shall start to perform under the Contract.

23. *Owner*--The person or public entity purchasing the Equipment and Special Services.

24. *Point of Destination*--The specific address of the location where delivery of the Equipment shall be made as stated in the Contract.

25. *Project*--The total undertaking of which the Equipment and Special Services to be provided under the Contract are a part.

26. *Project Manual*--The bound documentary information prepared, for bidding and furnishing the Equipment and Special Services. A listing of the contents of the Project Manual; which may be bound in one or more volumes, is contained in the table(s) of contents.

27. *Proposal*--An offer or bid submitted on the prescribed form setting forth the prices for the Equipment and Special Services to be provided.

28. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Equipment and which establish the standards by which such portion of the Equipment or Special Services will be judged.

29. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Equipment or Special Services.

30. *Special Services*--Services associated with the Equipment to be furnished by Contractor as required by the Equipment Contract.

31. *Specifications*--That part of the Equipment Contract consisting of written technical descriptions of materials, equipment, systems, standards and workmanship as applied to the furnishing of the Equipment and Special Services, and certain administrative details applicable thereto.

32. *Successful Bidder*--The lowest responsible Bidder submitting a responsive Bid, to whom Owner makes an award.

33. *Written Amendment*--A written statement modifying the Equipment Contract, signed by Owner and Contractor on or after the Effective Date, of the Contract and normally dealing with the administrative aspects of the Equipment Contract.

34. *Unit Price Work or Special Services* - Work or Special Services to be paid for on the basis of unit prices.

1.02 Terminology

A. Intent of Certain Terms or Adjectives

1. The Equipment Contract includes the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to, the Equipment, or Special Services. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Equipment or Special Services for compliance with the requirements of and information in the Equipment Contract and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Equipment Contract (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing of Equipment or Special Services or any duty or authority to undertake responsibility contrary to any other, provision, of the Equipment Contract.

2. Unless stated otherwise in the Equipment Contract, words or phrases which have a well-known technical or construction industry or

trade meaning are used in the Equipment Contract in accordance with such recognized meaning.

3. The word "non-conforming" when modifying the words "Equipment" or "Special Services", refers to Equipment or Special Services that fail to conform to the Equipment Contract.

4. The word "receipt" when referring to the Equipment, shall mean the physical taking and possession by the Owner under the conditions specified in Paragraph 8.01 B.3.

B. Day

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 Delivery of Bonds

A. When Contractor delivers the executed Contract s to Owner, Contractor also shall deliver such bonds as Contractor may be required to furnish.

2.02 Copies of Documents

A. Owner shall furnish Contractor up to five copies of the Equipment Contract. Additional copies will be furnished upon request at the cost of reproduction.

2.03 Commencement of Contract Times; Notice to Proceed

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the ninetieth day after the day of Proposal opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

2.04 Designated Representatives

A. Owner and Contractor shall each designate its representative at the time the Contract is signed. Each representative shall have full authority to act on behalf of and make binding decisions in any matter arising out of or relating to the Contract.

2.05 Before Starting Fabrication/Assembly of Equipment

A. Contractor's Review of Equipment Contract: Before commencing performance of the Contract, Contractor shall carefully study and compare the Equipment Contract and check and verify pertinent requirements therein and, if specified, all applicable field measurements. Contractor shall promptly report in writing to Owner and Engineer any conflict, error, ambiguity or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any work affected thereby.

2.06 Progress Schedule

A. Within 15 days after the Contract Times start to run, Contractor shall submit to Owner and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Equipment Contract. No progress payment will be made, to Contractor until an acceptable schedule is submitted to Owner and Engineer.

B. The progress schedule will be acceptable to Owner and Engineer if it provides an orderly progression of the submittals, tests, and deliveries to completion within the specified Milestones and the Contract Times. Such acceptance will not impose on Owner or Engineer responsibility for the progress schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Contractor from Contractor's full responsibility therefor. Such acceptance shall not be deemed to acknowledge the reasonableness and attainability of the schedule.

2.07 Preliminary Conference

A. Within 20 days after the Contract Times start to run, a conference attended by Contractor, Owner, Engineer and others as appropriate will be held to establish a working understanding among the parties as to the Equipment and Special Services and to discuss the schedule referred to in Paragraph 2.06 A., procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

ARTICLE 3 --EQUIPMENT CONTRACT DOCUMENTS: INTENT AND AMENDING

3.01 Intent

A. The Equipment Contract Documents are complementary; what is called for by one is as binding as if called for by all

B. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Equipment Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided, whether or not specifically called for, at no additional cost to Owner

C. Clarifications and interpretations of, or notifications of minor variations and deviations in, the Equipment Contract Documents, will be issued by Engineer as provided in Article 9.

3.02 Laws and Regulations, Standards, Specifications and Codes

A. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws and Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws and Regulations in effect at the time of opening of Proposals (or on the Effective Date of the Contract, if there were no Proposals), except as may be otherwise specifically stated in the Equipment Contract.

B. No provision of any such standard, specification, manual or code, or any instruction of a supplier shall be effective to change the duties or responsibilities of Owner or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Equipment Contract, nor shall any such provision or instruction be effective to assign to Owner or Engineer, or any of their consultants, agents, or employees any duty or authority to supervise or direct the performance of Contractor's obligations or any duty or authority to undertake responsibility inconsistent with the provisions of the Equipment Contract.

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies: If, during the performance of the Contract, Contractor discovers any conflict, error, ambiguity; or discrepancy within the Equipment Contract or between the Equipment Contract and any provision of any Law or Regulation applicable to the performance of the Contract or of any standard, specification, manual or code, or of any instruction of any supplier, Contractor shall promptly report it to Owner in writing for Engineer's review. Contractor shall not proceed with the furnishing of the Equipment or Special Services affected thereby until an amendment to or clarification of the Equipment Contract has been issued. Contractor shall not be liable to Owner or Engineer for failure to report any such conflict, error, ambiguity, or discrepancy unless Contractor knew or reasonably should have known thereof.

B. Resolving Discrepancies: Except as may be otherwise specifically stated in the Equipment Contract, the provisions of the Equipment Contract shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Equipment Contract and:

1. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Equipment Contract); or

2. the provisions of any Laws or Regulations applicable to the furnishing of the Equipment and Special Services (unless such an interpretation of the provisions of the Equipment Contract would result in violation of such Law or Regulation).

3.04 Amending and Clarifying Equipment Contract

A. The Equipment Contract may be amended to provide for additions, deletions, and revisions to the Equipment or Special Services or to modify the terms and conditions thereof by a Written Amendment or a Change Order.

B. The requirements of the Equipment Contract may be supplemented, and minor variations and deviations in the Equipment or Special Services not affecting Contract Price or Contract Times may be authorized, by one or more of the following ways: 1) a Field Order; 2) Engineer's approval of a Shop Drawing pursuant to Paragraph 5.06 D.2; or 3) Engineer's written interpretation or clarification.

ARTICLE 4 - BONDS AND INSURANCE

4.01 Bonds – Not Used

4.02 Insurance- See RUS Form 198, Article IV, Section 2.

ARTICLE 5 - CONTRACTOR'S RESPONSIBILITIES

5.01 Supervision and Superintendence

A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures used in performing its obligations. Contractor shall be responsible to see that the completed Equipment and Special Services conform to the Equipment Contract.

5.02 Labor, Materials and Equipment

A. Contractor shall provide competent, qualified and trained personnel in all aspects of its performance of the Contract.

B. All equipment, products and material incorporated into the Equipment shall be as specified, or if not specified, shall be new, of good quality and protected, assembled, used, connected, applied, cleaned and conditioned in accordance with the original manufacturer's instructions, except as otherwise may be provided in the Equipment Contract.

5.03 Compliance with Laws and Regulations, Standards, Specifications and Codes

A. Contractor shall comply with all Laws and Regulations applicable to the furnishing of the Equipment and Special Services.

5.04 Or Equals

A. Refer to Section 01600 – Product Requirements.

B. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made. Engineer will be the sole judge of acceptability. No "or-equal" will be ordered, manufactured or utilized until Engineer's review is complete, which will be evidenced by an approved Shop Drawing. Engineer will advise Owner and Contractor in writing of any negative determination. Notwithstanding Engineer's approval of an "or-equal" item, Contractor shall remain obligated to comply with the requirements of the Equipment Contract.

C. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any such proposed "or-equal."

D. Data: Contractor shall provide all data in support of any such proposed "or-equal" at Contractor's expense.

5.05 Taxes

A. Do not include any sums which are or may be payable by the Contractor on account of taxes imposed by any taxing authority upon the sale, purchase or use of the Equipment. If any such tax is applicable to the sale, purchase or use of the Equipment hereunder, the amount thereof shall be added to the purchase price and paid by the Owner.

5.06 Shop Drawings and Samples

A. Contractor shall submit Shop Drawings and Samples to Owner for Engineer's review in accordance with the schedule required in Paragraph 2.06 A. All submittals will be identified as required and furnished in the number of copies specified in the Equipment Contract. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide.

B. Where a Shop Drawing or Sample is required by the Equipment Contract, any related work performed prior to Engineer's review of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements (if required), quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto; and

b. that all materials are suitable with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the furnishing of Equipment and Special Services.

2. Contractor shall also have reviewed and coordinated each Shop Drawing or Sample with the Equipment Contract.

3. Each submittal shall include a written certification from Contractor that Contractor has reviewed the subject submittal and confirmed that it is in compliance with the requirements of the Equipment Contract. Both Owner and Engineer shall be entitled to rely on such certification from Contractor.

4. With each submittal, Contractor shall give Owner and Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Equipment Contract. This notice shall be both in a written communication separate from the submittal and by specific notation on each Shop Drawing or Sample.

D. Engineer's Review

1. Engineer will provide timely review of Shop Drawings and Samples.

2. Engineer's review of Shop Drawings or Samples will be subject to the standard of Paragraph 1.02.A.1. Engineer's review will not relieve Contractor from responsibility for any variation from the requirements of the Equipment Contract unless Contractor has in writing called Engineer's attention to each such variation at the time of each submittal as required by Paragraph 5.06.C.1. and Engineer has given written notification of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample review.

E. Resubmittal Procedures: Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review. Contractor shall direct specific attention in writing to any revisions other than the corrections called for by Engineer on previous submittals.

5.07 Continuing Performance

A. Contractor shall adhere to the progress schedule established in accordance with Paragraph 2.06.A., and the Equipment shall be delivered and the Special Services furnished within the Contract Times specified in the Contract.

B. Contractor shall carry on the work and adhere to the progress schedule during all disputes or disagreements with Owner. No work shall be delayed or postponed pending resolution of any disputes or disagreements.

5.08 Contractor's Warranties and Guarantees

A. Contractor warrants and guarantees to Owner that the title to the Equipment conveyed shall be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance.

B. Contractor warrants and guarantees to Owner that all Equipment and Special Services will conform to the Equipment Contract, including any Samples approved by Engineer, and the Equipment will be of merchantable quality. Engineer shall be entitled to rely on representation of Contractor's warranty and guarantee.

C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, improper modification or improper maintenance or operation by persons other than Contractor, or
2. normal wear and tear under normal usage.

D. Contractor's obligation to furnish the Equipment and Special Services in accordance with the Equipment Contract shall be absolute. None of the following will constitute an acceptance of Equipment or Special Services that are non-conforming, or a release of Contractor's obligation to furnish the Equipment and Special Services in accordance with the Equipment Contract.

1. observations by Owner or Engineer;
2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. use of the Equipment by Owner;
4. any acceptance by Owner (subject to the provisions of Paragraph 8.02.D.1) or any failure to do so;
5. the issuance of a notice of acceptance by Owner pursuant to the provisions of Article 8,
6. any inspection, test or approval by others; or
7. any correction of non-conforming Equipment or Special Services by Owner.

E. Owner shall within a reasonable time notify Contractor of any breach of Contractor's warranties or guarantees. If Owner receives notice of a suit or claim as a result of such breach, Owner also may give Contractor notice in writing to defend such suit or claim. If Contractor fails to defend such suit or claim, Contractor will be bound in any subsequent suit or claim against Contractor by Owner by any factual determination in the prior suit.

5.09 *Indemnification - See RUS Form 198, Article IV, Section 1.*

ARTICLE 6 - SHIPPING AND DELIVERY

6.01 *Shipping*

A. Contractor shall select the carrier and bear all costs of packaging, transportation, insurance, special handling and any other costs associated with shipment and delivery.

6.02 *Delivery*

A. Contractor shall deliver the Equipment F.O.B. the Point of Destination in accordance with the Contract Times set forth in the Equipment Contract, or other date agreed to by Owner and Contractor.

B. Contractor shall provide written notice to Owner at least 15 days before shipment of the manner of shipment and the anticipated delivery date. The notice shall also include any instructions concerning special equipment or services required at the Point of Destination to unload and care for the Equipment. Contractor shall also require the carrier to give Owner at least 48 hours notice by telephone prior to the anticipated hour of delivery.

C. Owner will be responsible and bear all costs for unloading the Equipment from carrier.

D. Owner will assure that adequate facilities are available to receive delivery of the Equipment during the Contract Times set forth in the Contract, or another date agreed by Owner and Contractor.

E. No partial deliveries shall be allowed, unless permitted or required by the Equipment Contract or agreed to in writing by Owner.

5.03 *Risk of Loss*

A. Risk of loss and insurable interests transfer from Contractor to Owner upon Owner's receipt of the Equipment.

B. Notwithstanding the provisions of Paragraph 6.03.A, if Owner rejects the Equipment as non-conforming, the risk of loss on such Equipment shall remain with Contractor until Contractor corrects the non-conformity or Owner accepts the Equipment.

ARTICLE 7 - CHANGES: SCHEDULE AND DELAY

7.01 *Changes in the Equipment and Special Services*

A. Owner may at any time, without notice to any surety, make changes in the Equipment Contract within the general scope of the Contract.

B. If any such change or action by Owner affects the Contract Price or Contract Times, Contractor shall notify Owner within 15 days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Owner within 45 days after such occurrence. If Contractor fails to do so, Contractor waives any Claim for such adjustment.

C. Contractor shall not suspend performance while Owner and Contractor are in the process of making such changes and any related adjustments.

7.02 *Changes in Laws and Regulations*

A. Changes in Laws or Regulations not known at the time of opening of Proposals (or, on the Effective Date of the Contract if there were no Proposals) having an effect on the cost or time of furnishing the Equipment and Special Services shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 9.06.A.

7.03 *Changing Contract Price or Contract Times*

A. The Contract Price or Contract Times may only be changed by:

1. a Change Order;
2. a Written Amendment; or
3. a written unilateral order of Owner, in which case Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times for any reasonable and necessary costs or delays incurred by Contractor to accommodate such a change.

B. If Contractor is prevented from delivering the Equipment or performing the Special Services within the Contract Times for any unforeseen reason beyond its control and not attributable to its actions or inactions, then Contractor shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include fire, floods, epidemics, abnormal weather conditions, acts of God, acts of war, directions by government authority, and other like matters. If such an event occurs and delays Contractor's performance, Contractor shall notify Owner in writing within 15 days of the beginning of the event causing the delay, stating the reason therefor.

C. Contract Times will not be modified for delays within the control of Contractor, including labor strife, transportation shortages or delays at Contractor's facilities. Delays attributable to and within the control of Contractor's subcontractors or suppliers shall be deemed to be delays within the control of Contractor.

D. If Contractor is prevented from delivering the Equipment or furnishing the Special Services within the Contract Times due to the actions or inactions of Owner, Contractor shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Owner.

E. Neither Owner nor Contractor shall be entitled to any damages arising from delays which are beyond the control of both Owner and Contractor, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, acts of war, direction by government authority, and other like matters.

ARTICLE 8 - OWNER'S RIGHTS

8.01 Inspections and Testing

A. General:

1. Owner shall have the right to perform, or cause to be performed, reasonable inspections and require reasonable tests of the Equipment at Contractor's facility, and at the Point of Destination Contractor shall allow Owner a reasonable time to perform such inspections or tests.

2. Contractor shall bear all expenses, except for travel, lodging and subsistence expenses of Owner's representatives, for inspections and tests at Contractor's facility, but Owner shall be entitled to reimbursement from Contractor for travel, lodging and subsistence expenses of Owner's representatives if the Equipment is non-conforming.

3. Owner shall bear all expenses, except for travel, lodging and subsistence expenses of Contractor's representatives, for inspections and tests at the Point of Destination, but Owner shall be entitled to reimbursement from Contractor for Owner's expenses for reinspection or retesting if, on the basis of an initial inspection or testing, Equipment is determined to be non-conforming.

4. Contractor shall provide Owner 30 days written notice of the readiness of the Equipment for all inspections, tests, or approvals which the Equipment Contract specify are to be observed by Owner prior to shipment.

5. Owner will give Contractor timely notice of all specified tests, inspections and approvals of the Equipment which are to be conducted at the Point of Destination.

6. If, on the basis of any inspections or testing, the Equipment appear to be conforming, Owner will give Contractor prompt notice thereof. If on the basis of said inspections or testing, the Equipment appear to be non-conforming, Owner will give Contractor prompt notice thereof and will advise Contractor of the remedy Owner elects under the provisions of paragraph 8.02.

7. Neither payments made by Owner to Contractor prior to any tests or inspections, nor any tests or inspections shall constitute acceptance of non-conforming Equipment, or prejudice Owner's rights under the Contract.

B. Inspection on Delivery:

1. Owner or Engineer will inspect the Equipment upon delivery solely for purposes of identifying the Equipment and general verification of quantities and observation of apparent condition in order to provide a basis for a progress payment. Such inspection will not be construed as final or as receipt of any Equipment and Special Services that, as a result of subsequent inspections and tests, are determined to be non-conforming.

2. Within ten days of such inspection, Owner shall provide Contractor with written notice of Owner's determination regarding conformity of the Equipment. In the event Owner does not provide such notice, it will be presumed that the Equipment appear to be conforming.

3. If, on the basis of the inspection specified in Paragraph 8.01.13.1, the Equipment appear to be conforming, Owner's notice thereof to Contractor will acknowledge receipt of the Equipment.

C. Final Inspection:

1. After all of the Equipment have been incorporated into the Project, tested in accordance with such testing requirements as are specified, and are functioning as intended, Owner or Engineer will make a final inspection.

2. If, on the basis of the final inspection, the Equipment are conforming, Owner's notice thereof will constitute Owner's acceptance of the Equipment.

3. If, on the basis of the final inspection, the Equipment are non-conforming, Owner will identify the nonconformity in writing.

8.02 Non-Conforming Equipment or Special Services

A. If, on the basis of inspections and testing prior to delivery, the Equipment appear to be non-conforming, or if at any time after Owner has acknowledged receipt of delivery and before the expiration of the correction period described in Paragraph 8.03, Owner determines that the Equipment are nonconforming, Contractor shall promptly, without cost to Owner and in response to written instructions from Owner, either correct such non-conforming Equipment, or, if rejected by Owner,

remove and replace the non-conforming Equipment with conforming Equipment, including all work required for reinstallation.

B. Owner's Rejection of Non-Conforming Equipment

1. If Owner elects to reject the Equipment in whole or in part, Owner's notice to Contractor will describe in sufficient detail the non-conforming aspect of the Equipment. If Equipment has been delivered to Owner, Contractor shall promptly, and within the Contract Times, remove and replace the rejected Equipment.

2. Contractor shall bear all costs, losses and damages attributable to the removal and replacement of the nonconforming Equipment as provided in Paragraph 8.02.E.

3. Upon rejection of the Equipment, Owner retains a security interest in the Equipment or to the extent of any payments made and expenses incurred in their testing and inspection.

C. Remedying Non-Conforming Equipment or Special Services

1. If Owner elects to permit the Contractor to modify the Equipment to remove the non-conformance, Contractor shall promptly provide a schedule for such modifications and shall make the Equipment conforming within a reasonable time.

2. If Owner notifies Contractor in writing that any of the Special Services are non-conforming, Contractor shall promptly provide conforming services acceptable to Owner. If Contractor fails to do so, Owner may delete the Special Services and reduce the Contract Price a commensurate amount.

D. Owner's Acceptance of Non-Conforming Equipment

1. Instead of requiring correction or removal and replacement of non-conforming Equipment discovered either before or after final payment, Owner may accept the nonconforming Equipment. Contractor shall bear all costs, losses, and damages attributable to Owner's evaluation of and determination to accept such non-conforming Equipment as provided in Paragraph 8.02.E.

E. Contractor shall pay all claims, costs, losses, and damages, including but not limited to all fees and charges for reinspection, retesting and for any engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs arising out of or relating to the non-conforming- Equipment or Special Services; including the correction or removal and replacement of the non-conforming Equipment and the replacement of property of Owner and others destroyed by the correction or removal and replacement of the non-conforming Equipment, or the obtaining of conforming Special Services from others.

8.03 Correction Period

A. The Equipment furnished hereunder shall become the property of the Owner upon deliver, provided, however, that the Owner or the Administrator, within one year after the initial date of synchronization of the turbine-generator unit with the transmissions system external to the plant, but not later than December 31, 2005, whichever may occur first, or within the period for which the Equipment is guaranteed, whichever is longer, may reject any Equipment which does not comply with the Specifications attached hereto and made a part hereof or with the guarantees, if any, of the Contractor and the manufacturer. Upon any such rejection, the Contractor shall repair or replace such defective Equipment within a reasonable time after notice in writing from the Owner and in the event of failure by the Contractor so to do, the Owner may make such replacement and the cost and expense thereof shall be paid by and recoverable from the Contractor

ARTICLE 9 - ROLE OF ENGINEER

9.01 Duties and Responsibilities

A. The duties and responsibilities and the limitations of authority of Engineer are set forth in the Equipment Contract.

9.02 Clarifications and Interpretations

A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the Equipment Contract as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Equipment Contract. Such written clarifications and interpretations will be binding on Owner and Contractor. If either Owner or Contractor believes that a written

clarification or interpretation justifies an adjustment in the Contract Price or Contract Times, either may make a Claim therefor.

9.03 Authorized Variations

A. Engineer may authorize minor deviations or variations in the Equipment Contract by: 1) issuance of approved Shop Drawings when such change or deviation was duly noted by Contractor as required in Paragraph 5.06 C 4, or 2) a Field Order.

9.04 Rejecting Non-Conforming Equipment and Special Services

A. Engineer will have the authority to disapprove or reject Equipment or Special Services which Engineer believes to be non-conforming.

9.05 Decisions on Requirements of Equipment Contract

A. Engineer will be the initial interpreter of the Equipment Contract and judge of the acceptability of the Equipment and Special Services. Claims, disputes and other matters relating to the acceptability of the Equipment and Special Services or the interpretation of the requirements of the Equipment Contract pertaining to Contractor's performance will be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph.

B. When functioning as interpreter and judge under this Paragraph 9.05, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer pursuant to this Paragraph 9.05 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 10.07) will be a condition precedent to any exercise by Owner or Contractor of such rights or remedies as either may otherwise have under the Equipment Contract or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.06 Claims and Disputes

A. *Notice:* Written notice of each Claim, dispute or other matter relating to the acceptability of the Equipment and Special Services or the interpretation of the requirements of the Equipment Contract pertaining to Contractor's performance shall be delivered by the claimant to Engineer and the other party to the Contract within 15 days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Engineer and the other party within 45 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data.

B. *Engineer's Decision:* Engineer will render a decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. Engineer's written decision on such Claim, or dispute, or other matter will be final and binding upon Owner and Contractor unless:

1. an appeal from Engineer's decision is made within the time limits and in accordance with the dispute resolution procedures set forth in Article 13; or

2. if no such dispute resolution procedures have been set forth, a written notice of intention to appeal is delivered by Owner or Contractor to the other and to Engineer within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision (unless otherwise agreed to in writing by Owner and Contractor), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If Engineer does not render a formal decision in writing within the time stated in Paragraph 9.06 B., a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

ARTICLE 10 - PAYMENT

THE FOLLOWING SUPERSEDES SECTION 3 - ATTACHMENT No. 11
PAGE 5 OF THE EQUIPMENT CONTRACT PAGE 27

10.01 *Payment.* The Owner shall pay the Contractor a percentage of the Contract Price of the Equipment. 10 percent upon delivery and satisfactory review of Shop Drawings; 50 percent upon verified receipt of materials in Contractor's shop; 40 percent upon receipt of Equipment. When the Equipment has been installed, placed in satisfactory operation and tested, the Owner shall certify such fact to the Administrator. Upon such certification by the Administrator, the Owner shall make final payment therefor to the Contractor, provided, however, such final payment shall be made not later than December 31, 2008.

10.02 *Retainage Escrow Account.* If the Contract is in the amount of \$500,000 or more involving the improvement of real estate, a 10 percent retainage from each payment will be deposited in a separate escrow account with a bank or trust company authorized to do business in Kentucky.

A. Such escrow account will be administered by an escrow agent who will invest all of the escrowed principal in obligations at its sole discretion. Costs incurred by the escrow agent will be deducted from the escrow account.

B. Upon issuance of the receipt for final payment, signed by the engineer and approved in writing by the Owner and the Administrator, if necessary, the Contractor shall be entitled to all funds accumulated in the escrow account, together with any interest thereon, minus costs incurred by the escrow agent.

C. Establishment and administration of the retainage escrow account will be in accordance with the provisions of Kentucky Revised Statutes, KRS 371.160.

ARTICLE 11 - CANCELLATION, SUSPENSION, AND TERMINATION

11.01 Cancellation

A. Owner has the right to cancel the Contract, without cause, at any time prior to delivery of the Equipment by written notice. Cancellation pursuant to the terms of this paragraph shall not constitute a breach of contract by Owner. Upon cancellation:

1. Owner shall pay Contractor for Equipment, specially manufactured for the Project, plus any documented reasonable direct and indirect costs incurred by Contractor in producing such Equipment not recovered by payment for the reasonable value of the Equipment.

2. For Equipment which are not specially manufactured for the Project, Contractor shall be entitled to a restocking charge of 10 percent of the unpaid Contract Price of such Equipment.

11.02 Suspension of Performance by Owner

A. Owner has the right to suspend performance of the Contract, without cause, by written notice. Upon suspension under this paragraph, Contractor shall be entitled to an increase in the Contract Times and Contract Price caused by the suspension, provided that performance would not have been suspended or delayed for causes attributable to Contractor.

11.03 Suspension of Performance by Contractor

A. Subject to the provisions of Paragraph 5.07.B, Contractor may suspend the furnishing of the Equipment and Special Services only under the following circumstance:

1. Contractor has reasonable grounds to conclude that Owner will not perform its future payment obligations under the Contract. ("Reasonable grounds" shall not include a pending dispute or disagreement with Owner) and,

2. Contractor has requested in writing assurances from Owner that future payments will be made in accordance with the Contract, and Owner has failed to provide such assurances within ten days of Contractor's written request.

11 04 *Breach and Termination*

A. *Owner's Breach:*

1. Owner shall be deemed in breach of the Contract if it fails to comply with any material provision of the Equipment Contract, including but not limited to:

- a. wrongful rejection or revocation of Owner's acceptance of the Equipment,
- b. failure to make payments in accordance with the Equipment Contract, or
- c. wrongful repudiation of the Contract.

2. Contractor shall have the right to terminate the Contract for cause by declaring a breach should Owner fail to comply with any material provisions of the Contract. Upon termination, Contractor shall be entitled to all remedies provided by Laws and Regulations.

- a. In the event Contractor believes Owner is in breach of its obligations under the Contract, Contractor shall provide Owner with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Owner shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Contractor may grant in writing) within which to cure the alleged breach.

B. *Contractor's Breach:*

1. Contractor shall be deemed in breach of the Contract if it fails to comply with any material provision of the Equipment Contract, including, but not limited to:

- a. failure to deliver the Equipment or perform the Special Services in accordance with the Equipment Contract,
- b. wrongful repudiation of the Contract; or
- c. delivery or furnishing of non-conforming Equipment or Special Services.

2. Owner may terminate Contractor's right to perform the Contract for cause by declaring a breach should Contractor fail to comply with any material provision of the Equipment Contract. Upon termination, Owner shall be entitled to all remedies provided by Laws and Regulations.

- a. In the event Owner believes Contractor is in breach of its obligations under the Contract, and except as provided in Paragraph 11 04 B.2.b, Owner shall provide Contractor with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Contractor shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Owner may grant in writing) within which to cure the alleged breach.

- b. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 4.01, the notice and cure procedures of that bond, if any, shall supersede the notice and cure procedures of Paragraph 11 04 B.2 a.

ARTICLE 12 - LICENSES AND FEES

12.01. *Intellectual Property and License Fees*

A. Unless specifically stated elsewhere in the Equipment Contract, Contractor is not transferring any intellectual property rights, patent rights, or licenses for the Equipment delivered. However, in the event the Contractor is manufacturing to Owner's design, Owner retains all intellectual property rights in such design.

B. Contractor shall pay all license fees and royalties and assume all costs incident to the use or the furnishing of the Equipment, unless specified otherwise by the Equipment Contract.

12 02 *Contractor's Infringement*

A. Subject to Paragraph 12 01.A, Contractor shall indemnify and hold harmless Owner, Engineer and their officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments "including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement or alleged infringement of any United States or foreign patent or copyright by any of the Equipment delivered hereunder.

B. In the event of suit or threat of suit for intellectual property infringement, Owner will notify Contractor within a reasonable time of receiving notice thereof.

C. Upon written demand from Owner, Contractor shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Contractor shall have control over such claim or suit, provided that Contractor agrees to bear all expenses and to satisfy any adverse judgment thereof.

1. If Contractor fails to defend such suit or claim after written demand by Owner, Contractor will be bound in any subsequent suit or claim against Contractor by Owner by any factual determination in the prior suit or claim.

2. If Owner fails to provide Contractor the opportunity to defend such suit or claim after written demand by Contractor, Owner shall be barred from any remedy against Contractor for such suit or claim.

D. If a determination is made that Contractor has infringed upon intellectual property rights of another, Contractor may obtain the necessary licenses for Owner's benefit, or replace, the Equipment and provide related design and construction as necessary to avoid the infringement at Contractor's own expense.

12 03 *Owner's Infringement*

A. Owner shall indemnify and hold harmless Contractor, and its officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of alleged infringement of any United States or foreign patent or copyright caused by Contractor's compliance with Owner's design of the Equipment or Owner's use of the Equipment in combination with other materials or equipment in any process (unless intent of such use was known to Contractor and Contractor had reason to know such infringement would result).

B. In the event of suit or threat of suit for intellectual property infringement, Contractor must within a reasonable time after receiving notice thereof notify Owner.

C. Upon written demand from Contractor, Owner shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Owner shall have control over such claim or suit, provided that Owner agrees to bear all expenses and to satisfy any adverse judgment thereof.

1. If Owner fails to defend such suit or claim after written demand by Contractor, Owner will be bound in any subsequent suit or claim against Owner by Contractor by any factual determination in the prior suit or claim.

2. If Contractor fails to provide Owner the opportunity to defend such suit or claim after written demand by Owner, Contractor shall be barred from any remedy against Owner for such suit or claim.

12.04 *Reuse of Documents*

A. Neither Contractor nor any other person furnishing any of the Equipment or Special Services under a direct or indirect contract with Contractor shall: (1) acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions; or (2) reuse any of such Drawings, Specifications, other documents, or copies thereof on any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer. This prohibition will survive termination or completion of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Equipment Contract for record purposes.

ARTICLE 13 - NOT USED

ARTICLE 14 - MISCELLANEOUS

14.01 Giving Notice

A. Whenever any provision of the Equipment Contract requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice

14.02 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Point of Destination is located.

14.03 *Computation of Time*

A. When any period of time is referred to in the Equipment Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation.

14.04 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Equipment Contract, and the provisions of this paragraph will be as effective as if repeated specifically in the Equipment Contract in connection with each particular duty, obligation, right, and remedy to which they apply.

14.05 *Survival of Obligations*

A. All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with the Equipment Contract, as well as all continuing obligations indicated in the Equipment Contract, will survive final payment, completion and acceptance of the Equipment or Special Services and termination or completion of the Contract.

14.05 *Liquidated Damages- See RUS Form 198, Article V, Section 1.*

14.06 *Certification Regarding Debarment and Suspension*

A. Certification regarding debarment, suspension, ineligibility and voluntary exclusion is required on all services greater than \$25,000. Forms are attached for this certification.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

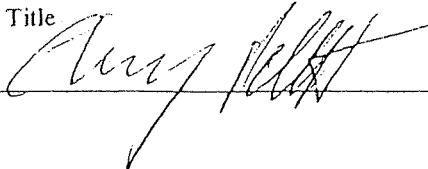
INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

CERTIFICATION

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BendTec, Inc.	F101-Spurlock Unit 4
Organization Name	PR/Award or Project Name
C. Roger Pellett, Vice President	
Name and Title	
	1/19/05
Signature	Date

LOBBYING CERTIFICATION

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

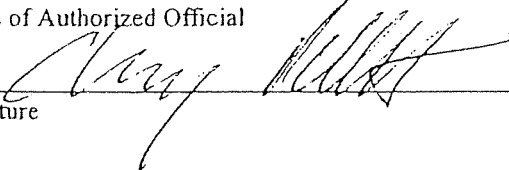
BendTec, Inc.

Organization Name

C. Roger Pellett

Name of Authorized Official

Signature



1/19/05

Date

PART 1 GENERAL

PSC Request 1a.
Attachment No. 11
PAGE 33

1.01 SECTION INCLUDES

- A. Work covered by Equipment Contract.
- B. Contract
- C. Work by others.
- D. Copies of Drawings and Project Manuals.
- E. References.
- F. Unit adjustment prices.

1.02 WORK COVERED BY EQUIPMENT CONTRACT

- A. Work of this Agreement comprises of design, fabrication, and delivery of specialty pipe and fittings for East Kentucky Power Cooperative, Inc., Maysville, Kentucky.

1.03 CONTRACT

- A. Work shall be performed under single lump sum Contract.

1.04 WORK BY OTHERS

- A. Receiving, unloading, storing, and field erection.
- B. Flange bolts, studs, washers, nuts, and gaskets.
- C. Valves, expansion joints, and instruments.
- D. Pipe supports and components.

1.05 COPIES OF DRAWINGS AND PROJECT MANUALS

- A. After Notice of Award, Contractor may obtain, at no charge, maximum of 5 sets of project manuals. Additional copies of project manuals will be furnished at Engineer's reproduction cost plus handling charge. If Contractor's requirements for additional project manuals necessitates reprinting of project manuals, Contractor shall pay entire cost of such reprinting. Partial sets of project manuals will not be provided.
- B. Revised project manuals, if required, will be provided by Engineer to show authorized changes or extra Work under provisions of Item "A." preceding.

1.06 REFERENCES

- A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current on date for receiving bids, except where a specific date is established by code.
- C. Obtain copies of standards where required by product specification sections.

- D. Should specified reference standards conflict with Equipment Contract, request clarification from the Engineer before proceeding.
- E. Neither the contractual relationships, duties, or responsibilities of the parties in Contract nor those of the Engineer shall be altered from the Equipment Contract by mention or inference otherwise in any reference document
- F. Abbreviations used in Drawings and Specifications are as specified in ANSI Y1.1 and IEEE 260.
- G. Schedule of references:
 - 1. AFBMA - Anti-Friction Bearing Manufacturers Association
 - 2. AFS – American Foundrymen’s Society
 - 3. AGMA - American Gear Manufacturers Association
 - 4. AIChE – American Institute of Chemical Engineers
 - 5. AISC - American Institute of Steel Construction
 - 6. AISI - American Iron and Steel Institute
 - 7. ANSI - American National Standards Institute
 - 8. API - American Petroleum Institute
 - 9. ASA – Acoustical Society of America
 - 10. ASCE – American Society of Civil Engineers
 - 11. ASHRAE - American Society of Heating, Refrigerating and Air Conditioning Engineers
 - 12. ASME - American Society of Mechanical Engineers
 - 13. ASPA - American Sod Producers Association
 - 14. ASTM - American Society for Testing and Materials
 - 15. AWS - American Welding Society
 - 16. CEMA – Conveyor Equipment Manufacturer’s Association
 - 17. CISPI – Cast Iron Soil Pipe Institute
 - 18. CMAA - Crane Manufacturers Association of America
 - 19. CPSC - Consumer Products Safety Council
 - 20. CRSI - -Concrete Reinforcing Steel Institute
 - 21. EIA - Electronic Industries Association
 - 22. EJMA - Expansion Joint Manufacturers Association
 - 23. ETL - Electrical Testing Laboratory
 - 24. FGMA - Flat Glass Marketing Association
 - 25. FM - Factory Mutual System
 - 26. HEI - Heat Exchange Institute
 - 27. HI – Hydraulics Institute
 - 28. IAPMO International Association of Plumbing and Mechanical Officials
 - 29. IEEE - Institute of Electrical and Electronics Engineers
 - 30. IES - Illuminating Engineering Society
 - 31. ISA - Instrument Society of America
 - 32. MSS - Manufacturer’s Standardization Society of the Valve and Fittings Industry
 - 33. NAAMM - National Association of Architectural Metal Manufacturers
 - 34. NBS – National Bureau of Standards
 - 35. NEMA - National Electrical Manufacturers’ Association
 - 36. NFPA - National Fire Protection Association
 - 37. NRMCA - National Ready Mixed Concrete Association
 - 38. OSHA - Occupational Safety and Health Administration
 - 39. PCA - Portland Cement Association
 - 40. PCI - Prestressed Concrete Institute
 - 41. PFI - Pipe Fabrication Institute
 - 42. RUS - Rural Utilities Services
 - 43. SAMA - Scientific Apparatus Makers Association
 - 44. SDI - Steel Deck Institute
 - 45. SSPC - Steel Structures Painting Council
 - 46. TCA – Tile Council of America
 - 47. TEMA - Tubular Exchanger Manufacturers Association
 - 48. UL - Underwriters’ Laboratories

1.07 UNIT ADJUSTMENT PRICES

- A. Unit adjustment prices will be used to adjust Contract Price for additions to or deductions from quantities required by Equipment Contract.
- B. Unit adjustment prices apply only to additions to or deductions from quantities required by Contract Documents made necessary by unforeseen conditions or changes deemed necessary or desirable by Owner.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

PSC Request 1a.
Attachment No. 11
PAGE 36

1 01 SECTION INCLUDES

- A. Form of schedules.
- B. Content of schedules.
- C. Progress revisions
- D. Submissions.

1 02 FORM OF SCHEDULES

- A. Prepare schedules in form of horizontal bar chart.
 - 1. Provide separate horizontal bar for each operation.
 - 2. Horizontal time scale: Identify first work day of each week.
 - 3. Scale and spacing: To allow space for notations and future revisions.
- B. Format of listings: Chronological order of start of each item of Work.

1.03 CONTENT OF SCHEDULES

- A. Progress schedule show:
 - 1. Complete sequence of work by activity.
 - 2. Dates for beginning, and completion of, each major element of design, procurement, and fabrication.
 - 3. Projected percentage of completion for each item, as of first day of each month.
- B. Submittal Schedule for Shop Drawings, manuals, and Samples shall show dates for Contractor's submittals.

1 04 PROGRESS REVISIONS

- A. Indicate progress of each activity to date of submission.
- B. Show changes occurring since previous submission of schedule:
 - 1. Major changes in scope.
 - 2. Activities modified since previous submission.
 - 3. Revised projections of progress and completion.
 - 4. Other identifiable changes.
- C. Provide narrative report as needed to define:
 - 1. Statement summarizing the status and condition of the work.
 - 2. Status of major material procurement.
 - a. Description of work.
 - b. Date order is to be placed or the date order was placed.
 - c. Subcontractor's name.
 - 3. Problem areas, anticipated delays, and impact on schedule.
 - 4. Corrective action recommended, and its effect.
- D. Progress photographs of specific parts of stages of work when requested by Engineer.

PSC Request 1a.
Attachment No. 11
PAGE 37

1.05 SUBMISSIONS

- A. Submit proposed milestone schedule with Proposal.
- B. Submit initial schedules and revised progress schedules as indicated in Section 01335.
- C. Submit 2 opaque reproducible copies of schedule to Owner and 2 to Engineer.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Shop Drawings.
- B. Samples.
- C. Contractor responsibilities.
- D. Submission requirements.
- E. Document submittal schedule.
- F. Resubmission requirements.
- G. Distribution.
- H. Engineer duties.
- I. **Shop Drawing Transmittal Form.**

1.02 SHOP DRAWINGS

- A. Contractor shall submit the items listed in the "Document Submittal Schedule" ~~included at the end of this section.~~
- B. Designate in progress schedule, or in separate coordinated schedule, dates for submission of all required documents.
- C. Shop Drawings shall be presented in clear and thorough manner, complete with respect to dimensions, design criteria, materials of construction, and like information to enable Engineer to review information as required.
- D. Sheet size:
 - 1. Minimum: 8-1/2" x 11".
 - 2. Maximum: 36" x 80".

1.03 SAMPLES

- A. Samples shall be identified clearly as to material, manufacturer, any pertinent catalog numbers, and use for which Intended, and shall be of sufficient size and quantity to clearly illustrate:
 - 1. Functional characteristics of item, with integrally related parts and attachment devices.
 - 2. Full range of color, texture, and pattern.

1.04 CONTRACTOR RESPONSIBILITIES

- A. Review Shop Drawings and Samples prior to submission.
- B. Determine and verify:
 - 1. Field construction criteria.
 - 2. Catalog numbers and similar data.
 - 3. Conformance to Specifications.
- C. Coordinate each submittal with other submittals and with requirements of Work and of Contract Documents.

- D. Notify Engineer in writing, at time of submission, of any variation in submittals from requirements of Contract Documents. Any such deviations permitted by Engineer will require modifications of Contract Documents.
- E. Begin no fabrication or Work which requires submittals until return of submittals by Engineer with Engineer stamp, as either "Reviewed" or "Reviewed as Noted." Any related Work performed prior to such return of pertinent submittal will be sole expense and responsibility of Contractor.
- F. Equipment shall not be delivered until return of shop test results by Engineer with Engineer stamp, as either "Reviewed" or "Reviewed as Noted." Any related Work performed prior to such return of pertinent submittal will be sole expense and responsibility of Contractor.

1.05 SUBMISSION REQUIREMENTS

- A. Make submittals to Engineer promptly in accordance with approved schedule, and in such sequence as to cause no delay in Work or in work of any other contractor.

- B. Deliver submittals to:

Mr. Larry Shell
Stanley Consultants, Inc.
Stanley Building
225 Iowa Avenue
Muscatine, Iowa 52761

- C. Number of submittals required:

- 1. Shop Drawings:
 - a. Submit **83** reproducible copies of each Shop Drawing.
 - b. Copies of drawings submitted shall be black line on white background.
 - c. Engineer will use 35 mm microfilm system in processing Shop Drawings. Shop Drawings shall be suitable for microfilming. Shop Drawings submitted which are not suitable for microfilming will not be reviewed.
- 2. Samples: Submit number stated in each Specification section.
- 3. Drawings shall be folded to 8-1/2" x 11". Reproducible prints shall be rolled.

- D. Submittals shall contain:

- 1. Date of submission and dates of any previous submissions.
- 2. Project title and number.
- 3. Contract identification.
- 4. Names of:
 - a. Contractor.
 - b. Supplier.
 - c. Manufacturer.
- 5. Identification of product, with Specification section number.
- 6. Field dimensions, clearly identified as such.
- 7. Relation to adjacent or critical features of Work or materials.
- 8. Applicable standards, such as ASTM or Federal Specification numbers.
- 9. Identification of deviations from Contract Documents.
- 10. Identification of revisions on resubmittals.
- 11. An 8" x 3" blank space for Engineer stamp.
- 12. Indication of Contractor's approval, initialed or signed, with wording substantially as follows:

"Contractor represents to Owner and Engineer that Contractor has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, or assumes full responsibility for doing so and has reviewed or coordinated each Shop Drawing or Sample with requirements of Equipment and Equipment Contract."

13. If Equipment Contract includes performance specifications stating required results which can be verified as meeting stipulated criteria, so that further detailed design by Contractor prior to fabrication is necessary, Shop Drawings must be prepared under seal of professional engineer registered in appropriate jurisdiction and Shop Drawing certification shall contain wording substantially as follows:

"I hereby certify that this engineering document was prepared by me or under my direct personal supervision, that I am a duly licensed Professional Engineer under the laws of the State of Kentucky and I accept responsibility for the adequacy of this document to meet criteria stipulated in the Contract Documents".

PSC Request 1a.
Attachment No. 11
PAGE 40

14. Shop Drawing Transmittal Form is bound herein. This form is also available on disk and may be obtained from the Engineer. Contractor shall reproduce any additional copies required and use in accordance with instructions given with Transmittal Form. Contractor shall submit 2 copies of Transmittal Form for initial submittals and resubmittals

1.06 DOCUMENT SUBMITTAL SCHEDULE

Item Number	Description	Reference Section Number	Time of Submittal (Calendar days after Notice to Proceed unless noted otherwise)
GENERAL			
1.	Proposed milestone schedule	01320	With Proposal
2.	Quality assurance manual		15
3.	Inspection and test plan		30 days prior to first fabrication
4.	Welding procedures, including procedure qualification records	01460	15
5.	Progress schedules	01320	15 days after Notice to Proceed and by the 10th of each month until the equipment arrives on site
6.	Proposed test procedures for shop testing	15182	30 days prior to performing shop tests
7.	Notification of tests	01451 15182	30 days prior to test/inspection
8.	Test data and inspection certificates		Within 14 days following each test or inspection
DELIVERY			
1.	Notice of preshipment inspection	01600	30 days prior to arrival
2.	Shipping notice	01600	15 days prior to arrival
3.	Packing lists, list of shipped loose items	01600	15 days prior to shipment
4.	Material Safety Data Sheets		60 days prior to first shipment to site
5.	Notice of presence of hazardous materials		When hazardous materials are shipped to site
6.	Special storage and handling requirements	15182	15 days prior to shipment
TECHNICAL			
1.	Completed Bidder Data and Information form	00434	With Proposal
2.	Typical plan and end view for wyes, tees, laterals, and reducers		With Proposal
3.	Stress concentration factors for wye fittings, laterals, tees and other irregular shaped fittings.		With Proposal

Item Number	Description	Reference Section Number	Time of Submittal (Calendar days after Notice to Proceed unless noted otherwise)
4.	Complete list of piping furnished, including number of pieces, lengths, spool weights and shipping weights.		60
5.	Calculated average spool piece wall thickness based on actual spool weight		Upon shipping
6.	Nominal O. D. and wall thickness that will be supplied for straight piping and for piping to be bent.		With Proposal
6-7.	Manufacturer's specifications and data sheets		90
7-8.	Weld repairs complete with evaluations		Upon shipping
8-9.	"Manufacturer's Data Form for Fabricated Piping," Form P-4A for piping and fittings manufactured in conformance to Section 1 of ASTM "Boiler and Pressure Vessel Code.		Upon shipping

PSC Request 1a.
Attachment No. 11
PAGE 41

1.07 RESUBMISSION REQUIREMENTS

- A. Make any corrections or changes in submittals required by Engineer and resubmit until stamped as "Reviewed" by Engineer. Contractor shall include issue number or issue date in document revision block or other clearly identified location on document. Changes shall be back-circled or otherwise clearly identified

1.08 DISTRIBUTION

- A. Distribute reproductions of Shop Drawings which carry Engineer stamp as either "Reviewed" or "Reviewed as Noted" to:
 1. Record Documents file.
 2. Subcontractors.
 3. Supplier or fabricator
- B. Distribute Samples which carry Engineer stamp as either "Reviewed" or "Reviewed as Noted" as directed by Engineer.

1.09 ENGINEER DUTIES

- A. Review required submittals with reasonable promptness and in accord with schedule, only for general conformance to design concept of Project and compliance with information given in Contract Documents. Review shall not extend to means, methods, sequences, techniques, or procedures of construction or to safety precautions or program incident thereto. Review of a separate item as such will not indicate approval of assembly in which item functions.
- B. Affix stamp and initials or signature, and indicate requirements for resubmittal, or review of submittal. Engineer's action on submittals is classified as follows:
 1. **Reviewed:** Submittal has been reviewed and appears to be in conformance to design concept of Project and Contract Documents. Contractor may proceed with fabrication of work in submittal.
 2. **Reviewed As Noted:** Submittal has been reviewed and appears to be in conformance to design concept of Project and Contract Documents, except as noted by Engineer. Contractor may proceed with fabrication of work in submittal with modifications and corrections as indicated by Engineer.
 3. **Resubmit:** Submittal has been reviewed and appears not to be in conformance to design concept of Project or with Contract Documents. Contractor shall not proceed with fabrication of work in submittal, but instead shall make any corrections required by Engineer and resubmit for review.

4. **Returned without Review:** Submittal is being returned without having been reviewed because:
1) not required by Contract Documents; 2) grossly incomplete; 3) indicates no attempt at conformance to Contract Documents; 4) cannot be reproduced; 5) lacks Contractor's completed approval stamp; or 6) lacks design professional's seal when required by law or Contract Documents. If submittal is required by Contract Documents, Contractor shall not proceed with Work as detailed in submittal, but instead shall correct defects and resubmit for review.
5. **For Information Only:** Submittal has not been reviewed but is being retained for informational purposes only.

C. Return submittals to Contractor.

D. Engineer's review of submittals shall not relieve Contractor from responsibility for any variation from Contract Documents unless Contractor has, in writing, called Engineer's attention to such variation at time of submission, and Engineer has given written concurrence pursuant to Contract Documents to specific variation, nor shall any concurrence by Engineer relieve Contractor from responsibility for errors or omissions in submittals.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

*PSC Request 1a.
Attachment No. 11
PAGE 44*

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Welding requirements.
- B. Procedure qualification.
- C. Performance qualification.
- D. Submittals.

1.02 WELDING REQUIREMENTS

- A. Welding shall be performed by qualified welding operators using procedures which have been qualified in accordance with applicable codes and standards:
 - 1. ANSI B31.1 Code for Pressure Piping.
 - 2. ASME Boiler and Pressure Vessel Code.
 - 3. AWS D1.1 Structural Welding Code.

1.03 PROCEDURE QUALIFICATION

- A. Contractor, Subcontractor, or fabricator performing welding under jurisdiction of referenced codes shall be responsible for obtaining and qualifying welding procedures. Structural welding procedures conforming to AWS D1.1 are prequalified as defined in AWS D1.1, Chapter 5 and Appendix E.
- B. Contractor shall maintain records, and make available to Owner when requested, certifying successful completion of procedure qualification tests.

1.04 PERFORMANCE QUALIFICATION

- A. Contractor, Subcontractor, or fabricator performing welding under jurisdiction of referenced codes shall be responsible for testing and qualifying its welding operators in accordance with applicable codes, using qualified procedures.
- B. Unless welding operators have been previously qualified by Contractor within last 6 months and have been continuously employed as welders by Contractor following qualification, requalification tests must be performed.

1.05 SUBMITTALS

- A. Except for procedures exempted to AWS D1.1, Section 5.1, submit 1 copy of each welding procedure to Engineer with certificate demonstrating successful qualification of welding procedures for each welding process performed: AWS D1.1 - Forms E-1, E-2, E-3, or ASME QW-483.
- B. If requested, submit to Engineer 1 copy of welder qualification form for each individual performing welding: AWS D1.1 Form E-4 or ASME QW-484.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION
NOT USED

PSC Request 1a.
Attachment No. 11
PAGE 45

END OF SECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Products.
- B. Product delivery requirements.
- C. Product storage and handling requirements.
- D. Product options.
- E. Product substitution procedures.

1.02 PRODUCTS

- A. Products include material, equipment, and systems.
- B. Provide products of qualified manufacturers suitable for intended use. Provide products of each type by a single manufacturer unless specified otherwise.

1.03 PRODUCT DELIVERY REQUIREMENTS

- A. Transport and handle products in accordance with manufacturer's instructions.
- B. Provide 30 days' notice of preshipment inspection.
- C. Contractor shall give Owner at least 15 days' prior written notice of date when equipment will be ready for shipment and manner of shipment.
- D. Submit packing lists and lists of items shipped loose 15 days prior to shipment.
- E. Contractor shall require carrier to give Owner not less than 48 hours notice by telephone of anticipated hour of delivery.

1.04 PRODUCT PACKAGING AND HANDLING REQUIREMENTS

- A. Package and protect products in accordance with manufacturers' instructions.
- B. Package with seals and labels intact and legible.
- C. Package sensitive products in weathertight, climate controlled enclosures in an environment favorable to product.
- D. Packaging of equipment shall include provision of desiccant between covers and equipment and inside equipment as applicable. Desiccant shall be of type permitting visual determination of condition of desiccant. Replace desiccant if it becomes ineffective prior to delivery.

1.05 PRODUCT OPTIONS

- A. Within 30 days after effective date of Contract, submit complete list of products proposed, with name of manufacturer, trade name, and model.
 - 1. Products specified only by reference standard: Any product meeting that standard.
 - 2. Products specified by naming several manufacturers: Products of any named manufacturer meeting specifications.

3. Products specified by naming one or more manufacturers and "or equal": Submit request for substitution for any manufacturer not specifically named.
4. Products specified by naming only one manufacturer: No option.

1.06 PRODUCT SUBSTITUTION PROCEDURES

- A. Engineer will consider requests for Substitutions only within 30 days after effective date of Contract.
- B. Substitutions may be considered when a product becomes unavailable through no fault of the Contractor.
- C. Document each request with complete data substantiating compliance of proposed Substitution with Equipment Contract.
- D. Request constitutes representation that Contractor:
 1. Has investigated proposed product and determined that it meets or exceeds quality level of specified product.
 2. Will provide same warranty for Substitution as for specified product.
 3. Will coordinate installation and make changes to other Work which may be required for Work to be complete with no additional cost to Owner.
 4. Waives claims for additional costs or time extension which may subsequently become apparent.
- E. Substitutions will not be considered when they are indicated or implied on Shop Drawing or Product Data submittals, without separate written request, or when acceptance will require revision to the Contract Documents.
- F. Substitution submittal procedure:
 1. Submit 3 copies of request for Substitution for consideration. Limit each request to one proposed Substitution.
 2. Submit Shop Drawings, Product Data, and certified test results attesting to the proposed product equivalence. Burden of proof is on proposer.
 3. Engineer will notify Contractor in writing of decision to accept or reject request.

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Closeout procedures.
- B. Project record documents.
- C. Spare parts and maintenance products.

1.02 CLOSEOUT PROCEDURES

- A. Submit written certification that Equipment Contract has been reviewed, apparatus has been inspected, and that apparatus is complete in accordance with Equipment Contract and ready for Owner's inspection.
- B. Provide submittals to Owner that are required by governing or other authorities.
- C. Submit final Application for Payment identifying total adjusted Contract Sum, previous payments, and sum remaining due.

1.03 PROJECT RECORD DOCUMENTS

- A. Maintain one set of following Record Documents; record actual revisions to the Work.
 - 1. Drawings.
 - 2. Specifications.
 - 3. Addenda.
 - 4. Change Orders and other modifications to the Contract.
 - 5. Reviewed Shop Drawings, Product Data, and Samples.
 - 6. Manufacturer's instruction for assembly, installation, and adjusting.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress, not less than weekly.
- E. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:
 - 1. Manufacturer's name and product model and number.
 - 2. Product substitutions or alternates utilized.
 - 3. Changes made by Addenda and modifications.
- F. Record Drawings and Shop Drawings:
 - 1. Legibly mark each item to record actual "as-built" conditions.
 - 2. Submit Record Drawings and final Shop Drawings in electronic format using AutoCAD software, as applicable.
- G. Submit documents to Owner with claim for final Application for Payment.

1.04 SPARE PARTS AND MAINTENANCE PRODUCTS

- A. Provide products in quantities specified in each Section, in addition to that required for completion of Work. Coordinate with Owner, deliver to Project Site and obtain receipt prior to final payment.
- B. Provide to Owner any special tools required for operation or maintenance of equipment.

EXECUTION REQUIREMENTS

Page 2 - SECTION 01700

PART 2 PRODUCTS

NOT USED

PART 3 EXECUTION

NOT USED

END OF SECTION