



BHMg Engineers, Inc.

9735 Landmark Parkway Drive
Suite 110A
St. Louis, MO 63127

Blake Toliver

December 7, 2023

Electric Department / Rochelle Municipal Utilities

E: btoliver@rmu.net

P: (815) 901-5257

Ref: 2201K002 – Rte. 38 Substation
Switchgear Purchase Recommendation

Dear Mr. Blake Toliver:

The City received and opened bids on December 05, 2023 for the switchgear purchase, a part of the Rte. 38 Substation project. A total of one (1) bid was received and has been reviewed for completeness and ability to meet specification requirements. Below is a summary of the total bid upon review of their documents.

Bidder	Total Bid Price	Alternate Option Adder	Lead Time
Avail/AZZ	\$2,672,000.00	\$637,000.00	77 weeks

The bid from Avail/AZZ was the only bid at \$2,672,000.00 for Specification 2008K002, no major exceptions were listed. The bid does include material and labor escalator language since the leadtime is so long. Avail/AZZ has a good list of reference completed projects. The company appears to be in good standing and employs certified and trained craftsmen.

The low bid is over the Engineer’s estimate of \$1,800,000 for the contract. Unfortunately, electric utility materials continue to increase rapidly. The city does need to expand their system with this Rte. 38 substation, and we do not see pricing come down anytime soon. Therefore, BHMg recommends awarding the contract to Avail/AZZ for the supply of the switchgear and evaluate purchasing the adder later.

With the City’s approval, release, and financial approval, BHMg will assist in issuing contract documents. Should you have any questions concerning the proposals or the project, please do not hesitate to contact us.

Sincerely,

Chris Couch

Assistant Project Manager

Enclosures: Bid Tab, Quotes

bhmg.com
636.296.8600



2201 K001 Rochelle Municipal Utilities - Rte. 38 Substation - Switchgear Purchase

BIDDERS / PROPOSALS	Avail				
	Electrorep				
BID SECURITY	5%				
Furnish the Goods & Special Services for the Equipment Purchase	2,672,000-				
PROJECT COMPLETION TIME - PROPOSAL 1	6/1/2025				
	<input checked="" type="checkbox"/> Registered Bidder	<input checked="" type="checkbox"/> Registered Bidder			Registered Bidder
	<input checked="" type="checkbox"/> Non-Collusion Affidavit	<input type="checkbox"/> Non-Collusion Affidavit		Non-Collusion Affidavit	Non-Collusion Affidavit
	<input checked="" type="checkbox"/> Bid Bond	<input type="checkbox"/> Bid Bond		Bid Bond	Bid Bond
	<input checked="" type="checkbox"/> Bid Form	<input type="checkbox"/> Bid Form		Bid Form	Bid Form
	<input type="checkbox"/> Any other documents as required by the specification	<input type="checkbox"/> Any other documents as required by the specificaton		Any other documents as required by the specificaton	Any other documents as required by the specificaton
<p>BHMG ENGINEERS, INC. Consulting Engineers 9735 Landmark Parkway Dr., Suite 110A St. Louis, MO 63127</p>		<p>Rochelle Municipal Utilities Rte. 38 Substation Switchgear Purchase Bids Received 12/5/23, 2:00 p.m.</p>		<p>Bid Opening Witnesses: City: _____ BHMG: <u>Laura Stackle</u></p>	

BID FORM
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This Bid is submitted by: Avail Switchgear Systems

Bid Form

ARTICLE 1 - BID RECIPIENT

1.01 This Bid is submitted to:

City of Rochelle
420 N. 6th Street
Rochelle, IL 61068

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with Buyer in the form included in the Bidding Documents to furnish the Goods and Special Services as specified or indicated in the Bidding Documents, for the prices and within the times indicated in this Bid, and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Buyer.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

Addendum No.	Addendum Date
<u>NA</u>	<u>NA</u>
_____	_____
_____	_____

B. Bidder has visited the Point of Destination and site where the Goods are to be installed or Special Services will be provided and become familiar with and is satisfied as to the observable local conditions that may affect cost, progress, or the furnishing of Goods and Special Services, if required to do so by the Bidding Documents, or if, in Bidder's judgment, any local condition may affect cost, progress, or the furnishing of Goods and Special Services.

- C. Bidder is familiar with and is satisfied as to all Laws and Regulations in effect as of the date of the Bid that may affect cost, progress, and the furnishing of Goods and Special Services.
- D. Bidder has carefully studied, considered, and correlated the information known to Bidder; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Bidder's visits, if any, to the Point of Destination and the site where the Goods will be installed or Special Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be installed or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Bidding Documents.
- E. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution (if any) thereof by Engineer is acceptable to Bidder.
- F. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing the Goods and Special Services for which this Bid is submitted.

ARTICLE 4 - BIDDER'S CERTIFICATIONS

4.01 Bidder certifies that:

- A. This Bid 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 collusive agreement or rules of any group, association, organization, or corporation.
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding.
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.

2. "Fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Buyer, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition.
3. "Collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish bid prices at artificial, non-competitive levels.
4. "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process.

ARTICLE 5 - BASIS OF BID

5.01 Bidder will furnish the Goods and Special Services in accordance with the Contract Documents including Allowance No. 1, as stipulated in the below documents for required scope changes for the following price(s):

Lump Sum Bid Price Including Allowance:	\$ 2,672,000
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SCHEDULE GUARANTEES

Drawing Submittal: 140 Calendar days from ARO
Assembly Complete: See proposal letter Calendar days from ARO
Factory Testing Complete: See proposal letter Calendar days from ARO
Delivery; Shall be Received by: 06/01/2025

EQUIPMENT DETAILS

Manufacturer: Avail Switchgear Systems
Total Weight: ~ 145,000 lbs.

Alternate Option Bid Price (Adder to above or Lump Sum)	\$ 637,000 adder
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SCHEDULE GUARANTEES

Drawing Submittal: 140 Calendar days from ARO
Assembly Complete: See proposal letter Calendar days from ARO
Factory Testing Complete: See proposal letter Calendar days from ARO
Delivery; Shall be Received by: 06/01/2025

EQUIPMENT DETAILS

Manufacturer: Avail Switchgear Systems
Total Weight: ~190,000 lbs.

5.02 Allowances

A. General

- a. Allowances as set forth in the specifications are to be used as compensation for items as set forth in this section.

B. Allowances

- a. Use the allowances only as authorized for OWNER purposes and only by an approved allowance disbursement form that indicates the amount to be charged to the respective amount.
- b. At substantial completion of the work, credit unused amounts remaining in the allowances to the owner by change order.

C. Allowance Disbursement

- a. Contractor/vendor shall submit a request for allowance disbursement. Include all substantiating and/or required data along with the request.
- b. Once the owner has accepted the disbursement, the Engineer will sign the allowance disbursement form.

D. Schedule of Allowances

- a. The following allowances shall be included in the base bid.
- b. Allowance No. 1 – include the stipulated sum of **\$100,000.00** for required scope change in the project.

5.03 It is understood and agreed by the undersigned that the Municipal Utility reserves the unrestricted privilege to reject the foregoing proposal indicated above and which the Municipality may consider excessive or unreasonable; to accept such proposal which it may consider fair and reasonable.

The lump sum of the proposal shall be the basis for establishing the amount of the performance bond and for comparison of bids.

The above delivery dates and times are to be filled in by the bidder before

submitting his proposal.

ARTICLE 6 - TIME OF COMPLETION

- 6.01 Bidder agrees that the work will be substantially complete on or before date specified in 5.01 and will be completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions on or before 30 days after date specified in 5.01.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 - ATTACHMENTS TO THIS BID

- 7.01 The following documents are attached to and made a condition of this Bid:
- A. Bid Bond
 - B. Non-Collusion Affidavit
 - C. Bidder's Qualifications
 - D. List of Proposed Suppliers
 - E. List of References.

ARTICLE 8 - DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders and the General Conditions.

ARTICLE 9 - BID SUBMITTAL

9.01 This Bid submitted by:

If Bidder is:

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type: _____

(General Business, Professional, Service, Other)

By: _____

(Signature – attach evidence of authority to sign)

Name: (typed or printed) _____

Title: _____

(Corporate Seal)

Attest: _____

(Signature of Corporate Secretary)

Business Address: _____

Phone: _____

Email Address: _____

A Limited Liability Company (LLC)

LLC Name: _____

AIS Holding Company LLC

State in which organized: _____

Georgia

By: _____

(Signature – attach evidence of authority to sign)

Name: (typed or printed) _____

Jacob Brune

Business Address: _____

560 Horizon Drive, Suite 100

Suwanee, GA 30024

Phone: _____

573.592.1219

Email: _____

jacob.brune@ava:infra.com

BID BOND

PENAL SUM FORM

Any singular reference to Bidder, Surety, Owner, or other party shall be considered plural where applicable.

BIDDER

Name: Central Electric Manufacturing Company, LLC d/b/a/ Avail Switchgear Systems
Address: 7911 Old US Highway 54, Fulton, MO 65251

SURETY

(Name and Address of Principal Place of Business)

Name: Travelers Casualty and Surety Company of America
Address: One Tower Square, Hartford, CT 06183

OWNER

Name: **City of Rochelle**
Address: **420 N 6th Street, Rochelle, IL 61068**

BID

Bid Due Date: **12/05/2023**

Project: **Rochelle Municipal Utilities; Rte. 38 Substation-Switchgear Purchase**

BOND

Bond Number: Bid Bond
Date: December 5, 2023
(Not later than Bid due date)

Penal Sum: Five Percent of the Amount Bid (Words) \$ 5% of the Amount Bid (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

Central Electric Manufacturing Company, LLC
d/b/a/ Avail Switchgear Systems

Travelers Casualty and Surety Company of America

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

[Handwritten Signature]
Signature and Title

By:

[Handwritten Signature]
Signature and Title

Attest:

[Handwritten Signature]
Signature and Title

Attest:

(Attach Power of Attorney)
Abigail E. Curtiss, Attorney-in-Fact
[Handwritten Signature]
Signature and Title
Dana E. Wium, Witness

Note: Above addresses are to be used for giving required notice.



1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
 - 3.2. All Bids are rejected by Owner.
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY


KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **ABIGAIL E CURTISS** of **FARMINGTON** Connecticut, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.



State of Connecticut

City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2026




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **5th** day of **December**, 2023




Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

HARTFORD, CONNECTICUT 06183

FINANCIAL STATEMENT AS OF DECEMBER 31, 2022

CAPITAL STOCK \$6,480,000

ASSETS		LIABILITIES & SURPLUS	
BONDS	\$ 4,788,996,790	LOSSES	\$ 1,385,257,132
STOCKS	102,839,111	LOSS ADJUSTMENT EXPENSES	133,884,803
CASH AND INVESTED CASH	20,110,068	COMMISSIONS	55,456,724
OTHER INVESTED ASSETS	5,681,540	OTHER EXPENSES	49,033,047
SECURITIES LENDING REINVESTED COLLATERAL ASSETS	25,805,872	TAXES, LICENSES AND FEES	18,807,425
INVESTMENT INCOME DUE AND ACCRUED	42,265,768	REINSURANCE PAYABLE ON PAID LOSSES AND LOSS ADJ EXPENSES	(1,738,793)
PREMIUM BALANCES	308,425,453	UNEARNED PREMIUMS	1,394,161,189
REINSURANCE RECOVERABLE	57,954,516	ADVANCE PREMIUM	3,880,400
NET DEFERRED TAX ASSET	88,131,600	POLICYHOLDER DIVIDENDS	18,122,229
CURRENT FEDERAL AND FOREIGN INCOME TAXES RECOVERABLE AND INTEREST	3,250,318	CEDED REINSURANCE NET PREMIUMS PAYABLE	73,928,911
GUARANTY FUNDS RECEIVABLE OR ON DEPOSIT	1,059,482	AMOUNTS WITHHELD / RETAINED BY COMPANY FOR OTHERS	23,588,276
RECEIVABLE FROM PARENTS, SUBSIDIARIES AND AFFILIATES	14,868,600	REMITTANCES AND ITEMS NOT ALLOCATED	5,082,055
OTHER ASSETS	983,374	PROVISION FOR REINSURANCE	8,484,384
		PAYABLE FOR SECURITIES LENDING	25,805,872
		RETROACTIVE REINSURANCE RESERVE ASSUMED	785,441
		OTHER ACCRUED EXPENSES AND LIABILITIES	188,614
		TOTAL LIABILITIES	\$ 3,190,685,707
		CAPITAL STOCK	\$ 6,480,000
		PAID IN SURPLUS	433,803,780
		OTHER SURPLUS	1,808,161,022
		TOTAL SURPLUS TO POLICYHOLDERS	\$ 2,249,444,782
TOTAL ASSETS	\$ 5,440,130,489	TOTAL LIABILITIES & SURPLUS	\$ 5,440,130,489

STATE OF CONNECTICUT)
 COUNTY OF HARTFORD) ss.
 CITY OF HARTFORD)

MICHAEL J. DOODY, BEING DULY SWORN, SAYS THAT HE IS VICE PRESIDENT - FINANCE, OF TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, AND THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF, THE FOREGOING IS A TRUE AND CORRECT STATEMENT OF THE FINANCIAL CONDITION OF SAID COMPANY AS OF THE 31ST DAY OF DECEMBER, 2022.

Michael J. Doody
 VICE PRESIDENT - FINANCE

Susan M. Weissleder
 NOTARY PUBLIC

SUSAN M. WEISSELEDER
 Notary Public
 My Commission Expires November 30, 2027

SUBSCRIBED AND SWORN TO BEFORE ME THIS
 17TH DAY OF MARCH, 2023



Non-Collusion Affidavit

The Municipality reserves the right, before any award of contract is made, to require any bidder to whom it may make an award of the Principal Contract, to sign a non-collusion affidavit in the form designated below:

STATE OF Missouri

COUNTY OF Callaway

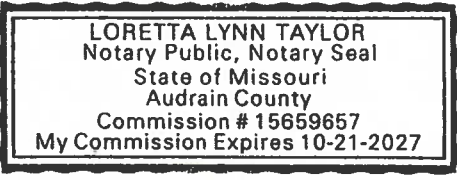
Jacob Brune, being first duly sworn, deposes and says that he is Sales Engineer * (~~sole owner, partner, president, secretary, etc.~~) of the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of said bidder or of any bidder to fix any overhead, profit or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such bid are true; and, further, that said bidder has not, directly or indirectly, submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his general business.

Signed: Jacob Brune

Title: Sales Engineer

Subscribed and sworn to before me this 29th day of November 20 23

Seal of Notary:
Loretta Lynn Taylor
Notary Public



* In making out this form, the title that is not applicable should be struck out. For example, if the Contractor is a corporation and this form is to be executed by its president, the words "Sole Owner, a partner, secretary", etc. should be struck out.

SECTION 00420

Qualifications

PART 1 – GENERAL

1.01 SECTION INCLUDES

- A. Appointment of Counsel
- B. Pre-qualifications
- C. Bidder's Qualifications
- D. Certifications
- E. References
- F. Signatures.

1.02 AWARD OF BID

- A. Failure of Bidder to meet all qualification criteria as stated in these Specifications shall disqualify Bidder from consideration for the Project.
- B. The Owner reserves the right to exclude Bidder from consideration due to the Bidder's failure to present with written documentation his experience and capability to complete the project to the Owner's expectations.

PART 2 – QUALIFICATIONS

2.01 APPOINTMENT OF COUNSEL – NON-RESIDENT

- A. Bidder has appointed None, whose address is 7911 Old US Highway 54, Fulton, MO 65251, as the agent of Bidder for service of process in the event any litigation or controversy results between the Bidder and Owner arising out of the contractual relationship created by the acceptance of this Bid. Bidder agrees that the courts of the State in which the project is located will have jurisdiction over Bidder for all such purposes to the same extent as though Bidder were a resident of the State.

2.02 PRE-QUALIFICATION

- A. Failure of Bidder to meet the Pre-qualification requirements as stated in the Instruction to Bidders Bid shall disqualify Bidder from consideration for the Project.

2.03 BIDDER'S QUALIFICATIONS

- A. Bidder shall prove to the Owner's satisfaction Bidder's experience in completing similar projects, thus demonstrating the ability of the Bidder to complete the Project to the Owner's Satisfaction.
- B. Bidder shall submit written proof and abide by the written proof that the Bidder will complete a minimum of (30) thirty percent of the overall project by his own company and workers.
- C. Bidder shall submit documentation proving that the Bidder is capable of funding the Project and is not in financial hardship.
- D. Bidder shall submit documentation proving that the Bidder uses only qualified, licensed workers experienced in the line of work.
- E. Bidder's subcontractors shall be the responsibility of the Bidder and shall be considered part of the Bidder's company and shall meet qualification requirements for all aspects of the Project.

2.04 CERTIFICATIONS

- A. The Bidder certifies the following as required by law:
 - 1. Bidder has not been convicted of bribery or attempting to bribe an officer or employee of the State, nor has the Bidder made an admission of guilt of such conduct which is a matter of record, nor has an official, agent or employee of the Bidder been so convicted or made such admission of bribery on its behalf and pursuant to the direction or authorization of a responsible official thereof.
 - 2. Bidder is not barred from bidding with any unit of state or local government as a result of unlawful bid rigging.

2.05 REFERENCES

- A. Bidder shall submit a minimum of three (3) written letters of recommendation with references' signatures and contact information to the Engineer.
- B. These References shall be from the Owner, Project Manager, or other individual who is knowledgeable on the project, or recent previous

Projects with very similar Scope of Work completed under the current Bidder's name.

- C. Bidder shall submit a minimum of three (3) company brochures, or company information sheets, along with list of completed equivalent projects.

2.06 SIGNATURES

Firm Name: AIS Holding Company LLC

Federal Taxpayer Identification Number: 88-2202150

By: Jacob Brune, Jacob Brune

Title: Sales Engineer

By: JLM JAKE MYERS

Title: SALES ENGINEER

Note: If the Bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if the Bidder is a partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if the Bidder is an individual, his signature shall be placed above. If signature is by an agent, other than an officer of a corporation or member of a partnership, a power of attorney must be submitted with the bid.

PART 3 – EXECUTION NOT USED

END OF SECTION

**Rochelle Municipal Utilities (BHMG)
Rte. 38 Substation Switchgear
Preliminary Bill of Material**

Description	Qty
COMPONENTS	1
<u>Power Switching Components</u>	
38kV	
Breaker Accessory, Eaton, 38kV, Spin-free levering-in crank (Breaker Accessory, Eaton, 38kV, VCPW-HD breaker) -- 8079A35G05	2
Breaker Accessory, Eaton, 38kV, Manual charging handle -- 8064A02G11	2
Breaker Accessory, Eaton, 38kV, Test jumper -- 72C2574G03	1
Breaker Accessory, Eaton, 38kV, Test Cabinet - Any DC close and any trip -- 8346A28G71	1
Breaker Accessory, Eaton, 38kV, Thru door electric levering-in crank 120 Vac only -- 70A2589G01 15kV	1
Accessory, Eaton, 5/15 kV, Standard set of accessories - Levering-in crank with clutch; Extension rails (right and left, one set); Manual charging handle; Set of rail clamps -- 1A30136G02	2
Accessory, Eaton, 5/15kV, Electrical levering-in device -- 1A30257G01	1
Accessory, Eaton, 5/15kV, Test jumper -- 6526C23G11	1
Accessory, Eaton, 5/15kV, Test cabinet - Any DC close and any trip -- 8346A28G21	1

Description	Qty
Unit #1 Main Incoming Aux, 34kV	1
<u>Power Switching Components</u>	
Mini-Module, Eaton, 38kV, for all 600/1200/1600/2000 (all) and 2500 A (<31.5 kA breaker) mini-module (55 inches high) --- 72C2506G01	1
Breaker, Eaton, 38kV, 2000A, 40kA, 5 cycle, 380VCPW-HD 40	1
<u>Metering</u>	
CT, AMRAN, 2000/5, C200, CT340-202MR	12
PT, AMRAN, 20125:120, 38kV, 60Hz, V36.7-20125	1
Fuse, Various, 38kV, 1E	1
<u>Relaying and Controls</u>	
11#1-1000, SEL-0311C113H3J54X2	1
11#2-1000, SEL-0311L03H03254XXXX	1
11-BH10, SEL-0587Z0X315312XX	1
MFPM-1000, SATEC PM172E-N-U-5-60HZ-ACDC-00	1
TS, ABB FT-1 129A501G01 Code # 001	6
TS, ABB FT-1 129A511G01 Code # 011	1
TS, ABB FT-1 129A514G01 Code # 014	4
TS, ABB FT-1 129A516G01 Code # 016	6
TS, ABB Blank Code # 000	2
52CS, Electros witch, Breaker Control Switch, 2457D	1
86DTT-L1, Electros witch, Direct Transfer Trip Lockout Relay, 7803D	1
86-BH, Electros witch, 34.5kV Bus Lockout Relay, 7808D	1
White Indicating Light, GE, ET-16	2
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Ball Stud, AB Chance, CE2468	3
Stud Cover, AB Chance, CE2467	3
Surge Arrester, Station, 21kV	3

Description	Qty
Unit #2, Transformer #1	1
<u>Power Switching Components</u>	
Mini-Module, Eaton, 38kV, for all 600/1200/1600/2000 (all) and 2500 A (<31.5 kA breaker) mini-module (55 inches high) -- 72C2506G01	1
Breaker, Eaton, 38kV, 1200A, 40kA, 5 cycle, 380VCPW-HD 40	1
<u>Metering</u>	
CT, AMRAN, 1200/5, C200, CT340-122MR	9
CT, AMRAN, 2000/5, C200, CT340-202MR	3
PT, AMRAN, 20125:120, 38kV, 60Hz, V36.7-20125	3
Fuse, Various, 38kV, 1E	3
<u>Relaying and Controls</u>	
11#1-T10, SEL-07872EE1A3A2A79850230	1
11#2-T10, SEL-0387A0103X3X54X	1
TS, ABB FT-1 129A501G01 Code # 001	6
TS, ABB FT-1 129A514G01 Code # 014	2
TS, ABB FT-1 129A518G01 Code # 018	2
52CS, Electros witch, Breaker Control Switch, 2457D	1
43R/L, Electros witch, Transformer LTC Tap Raise/Low Control Switch, 8845DB	1
43M/A, Electros witch, Transformer LTC Tap Manual/Auto Select Switch, 9203DD	1
43L/R, Electros witch, Transformer LTC Tap Local/Remote Control Switch, 24203B	1
86T10, Electros witch, Direct Transformer Differential Lockout Relay, 7803D	1
INCON 1250B-4-I-M-120, XFMR LTC Position Indicator	1
White Indicating Light, GE, ET-16	1
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Ball Stud, AB Chance, CE2468	3
Stud Cover, AB Chance, CE2467	3

Description	Qty
Unit #3, 38kV Future Feeder	1
<u>Power Switching Components</u>	
Mini-Module, Eaton, 38kV, for all 600/1200/1600/2000 (all) and 2500 A (<31.5 kA breaker) mini-module (55 inches high) -- 72C2506G01	1
Breaker, Eaton, 38kV, 1200A, 40kA, 5 cycle, 380VCPW-HD 40	1
<u>Metering</u>	
CT, AMRAN, 1200/5, C200, CT340-122MR	9
CT, AMRAN, 2000/5, C200, CT340-202MR	3
<u>Relaying and Controls</u>	
11#1-200, SEL-751101A3A2A2B851C00	1
11#2-200, SEL-0351A032X3E54X1	1
TS, ABB FT-1 129A501G01 Code # 001	4
TS, ABB FT-1 129A514G01 Code # 014	2
52CS, Electros witch, Breaker Control Switch, 2457D	1
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Ball Stud, AB Chance, CE2468	3
Stud Cover, AB Chance, CE2467	3
Surge Arrester, Station, 21kV	3
Unit #4, 38kV Future Feeder (BLANK)	1

Description	Qty
Unit #5, 38kV Main Incoming	1
<u>Power Switching Components</u>	
Mini-Module, Eaton, 38kV, for all 600/1200/1600/2000 (all) and 2500 A (<31.5 kA breaker) mini-module (55 inches high) --- 72C2506G01	1
Breaker, Eaton, 38kV, 2000A, 40kA, 5 cycle, 380VCPW-HD 40	1
<u>Metering</u>	
CT, AMRAN, 2000/5, C200, CT340-202MR	12
PT, AMRAN, 20125:120, 38kV, 60Hz, V36.7-20125	1
Fuse, Various, 38kV, 1E	1
<u>Relaying and Controls</u>	
11#1-1000, SEL-0311C113H3J54X2	1
11#2-1000, SEL-0311L03H03254XXXX	1
MFPM-1000, SATEC PM172E-N-U-5-60HZ-ACDC-00	1
TS, ABB FT-1 129A501G01 Code # 001	6
TS, ABB FT-1 129A511G01 Code # 011	1
TS, ABB FT-1 129A514G01 Code # 014	3
52CS, Electros witch, Breaker Control Switch, 2457D	1
86DTT-L2, Electros witch, Direct Transfer Trip Lockout Relay, 7803D	1
White Indicating Light, GE, ET-16	1
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Ball Stud, AB Chance, CE2468	3
Stud Cover, AB Chance, CE2467	3
Surge Arrester, Station, 21kV	3

Description	Qty
Unit #6-9, 15kV Feeder	4
<u>Power Switching Components</u>	
Compartment Kit, Eaton, 5/15kV, Roll-in, 1200A, 41 kA, Glass Polyester, Lower, Bus and Line -- 1C19907G311	1
Breaker, Eaton, 15kV, 1200A, 40kA, 5 cycle, K=1, 150VCP-W40, with factory install wheels (ROF)	1
TOC, Eaton, 5/15kV, 5A/5B contacts -- 1C20006G15	1
MOC, Eaton, 5/15kV, 10A/8B contacts (connect only) -- 1C20007G31	1
<u>Metering</u>	
CT, AMRAN, 2000/5, C200, CT102-202MR	3
CT, AMRAN, 1200/5, C200, CT102-122MR	3
<u>Relaying and Controls</u>	
11#1-10x, SEL-751101A3A2A2B851C00	1
TS, ABB FT-1 129A501G01 Code # 001	1
TS, ABB FT-1 129A514G01 Code # 014	2
52CS, Electros witch, Breaker Control Switch, 2457D	1
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Surge Arrester, Station Class, 15kV	3
Ball Stud, AB Chance, CE2468	6
Stud Cover, AB Chance, CE2467	3

Description	Qty
Unit #10, 15kV Main	1
<u>Power Switching Components</u>	
Compartment Kit, Eaton, 5/15kV, Roll-in, 2000A, 41 kA, Glass Polyester, Lower, Bus and Line -- 1C19907G321	1
Breaker, Eaton, 15kV, 2000A, 40kA, 5 cycle, K=1, 150VCP-W40, with factory install wheels (ROF)	1
TOC, Eaton, 5/15kV, 5A/5B contacts -- 1C20006G15	1
MOC, Eaton, 5/15kV, 10A/8B contacts (connect only) -- 1C20007G31	1
<u>Metering</u>	
CT, AMRAN, 2000/5, C200, CT102-202MR	12
Line PT,8050:120, 15kV, 60Hz	1
Fuse, Various, 15kV, 1E	1
<u>Relaying and Controls</u>	
11#1-2000, SEL-751101A3A2A2B851C00	1
TS, ABB FT-1 129A501G01 Code # 001	1
TS, ABB FT-1 129A514G01 Code # 014	2
52CS, Electros witch, Breaker Control Switch, 2457D	1
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Surge Arrester, Station Class, 15kV	3
Ball Stud, AB Chance, CE2468	6
Stud Cover, AB Chance, CE2467	3

Description	Qty
Unit #11, CPT Bus Diff.	1
<u>Power Switching Components</u>	
<u>Metering</u>	
CPT, ITI, 8050, 75KVA	1
Fuse, Various, 15kV, 25E	1
CPT Secondary Breaker, Various	1
DOOR INTERLOCKING MECHANISM	
Key Interlock, Kirk, Mechanism	1
Key Interlock, Kirk, Shaft	1
Key Interlock, Kirk, Handle	1
Bus PTs,8050:120, 15kV, 60Hz	3
Fuse, Various, 15kV, 1E	3
<u>Relaying and Controls</u>	
11-BL20, SEL-0587Z0X315312XX	1
TS, ABB FT-1 129A501G01 Code # 001	2
TS, ABB FT-1 129A514G01 Code # 014	1
TS, ABB FT-1 129A516G01 Code # 016	5
86-BL20, Electros witch, 34.5kV Bus Lockout Relay, 7808D	1
White Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	

Description	Qty
Unit #12, Tie OR Future (Optional, see pricing 1A in proposal)	1
<u>Power Switching Components</u>	
Compartment Kit, Eaton, 5/15kV, Roll-in, 2000A, 41 kA, Glass Polyester, Lower, Bus and Line -- 1C19907G321	1
Breaker, Eaton, 15kV, 2000A, 40kA, 5 cycle, K=1, 150VCP-W40, with factory install wheels (ROF)	1
TOC, Eaton, 5/15kV, 5A/5B contacts -- 1C20006G15	1
MOC, Eaton, 5/15kV, 10A/8B contacts (connect only) -- 1C20007G31	1
<u>Metering</u>	
CT, AMRAN, 2000/5, C200, CT102-202MR	12
<u>Relaying and Controls</u>	
11#1-10x, SEL-751101A3A2A2B851C00	1
TS, ABB FT-1 129A501G01 Code # 001	1
TS, ABB FT-1 129A514G01 Code # 014	2
52CS, Electros witch, Breaker Control Switch, 2457D	1
Green Indicating Light, GE, ET-16	1
Red Indicating Light, GE, ET-16	1
Corning Fiber Cable	1
<u>MISC</u>	
Hubbell Breaker Operation Plug, HBL2411	1
Surge Arrester, Station Class, 15kV	3
Ball Stud, AB Chance, CE2468	6
Stud Cover, AB Chance, CE2467	3

Description	Qty
Comm - Fiber Panel	1
SEL-2730M0ARAX1112AAAAX0, Security Ethernet Switch	2
SEL-3530#9GFJ, RTAC #1	3
SEL-2242#5DPM, RTAC Chassis/Backplane	1
SEL-224311X0, RTAC Power Coupler	1
SEL-22442424X0, RTAC Digital Input Module	4
SEL-22443131X0, RTAC Digital Output Module	1
SEL-22452121XX0, RTAC DC Analog Input Module	1
Wilmore, 1766-130-120-60-U, DC/AC Power Converter	1
Corning CCH-02U, Fiber Connector Housing	2
Corning CCH-CS12-A9-P00RE Fiber Cassette	8
POWER STRIP	1
FUSE BLK 1P MARATHON F30A1S	3
TB 12 POLE GE EB25B12	30
1/4"x1" PNL GROUND BUS	1
NAMEPLATES	10
UNISTRUT per 8 Ft.	1
GROMMETTED HOLE	
FUSE BLOCK PLASTIC GUARD	3
LUGS-GROUNDING (EACH)	4
HEATER ANIT-CONDENSATION	1
LIGHT PORCELAIN & SWITCH	1
1RU PANEL 19" RACK	1
3RU PANEL 19" RACK	6

Description	Qty
SCADA Panel	1
Computer, SEL-3355#0BKK	1
Keyboard Kit, SEL-91610049	1
HMI, SEL-91610054, Touch Screen Monitor/Display Kit	1
GPS Clock, SEL-24070003B	1
POWER STRIP	2
FUSE BLK 1P MARATHON F30A1S	3
TB 12 POLE GE EB25B12	20
1/4"x1" PNL GROUND BUS	1
NAMEPLATES	6
UNISTRUT per 8 Ft.	1
GROMMETTED HOLE	
LUGS-GROUNDING (EACH)	1
HEATER ANIT-CONDENSATION	1
LIGHT PORCELAIN & SWITCH	1
3RU PANEL 19" RACK	10

Description	AISLE	Qty
<u>Battery System</u>		
Battery Set, ALCAD, LSe200		1
Battery Freight		1
Battery Rack		1
Battery Exhaust Fan		1
Battery Safety Disconnect Switch		1
Motorized Intake Air Damper		1
Ventilation Timer Controls		1
Battery Charger		1
DC Panel		2
Hydrogen Detector, ARRGH, TYPE H2		1
Battery Electrolyte Test Kit		1
Eye Wash Station		1
<u>AC System</u>		
Duplex Receptacle		5
Auto Transfer Switch		1
AC Panel		1
Manual Transfer Switch, Eaton, DT325NGK, 400A		1
<u>Lighting</u>		
Interior LED Lights		13
Exterior Lights		2
Emergency/Exit Lights		2
Light Switch		2
<u>HVAC System</u>		
HVAC, Bard, Heat Pump		2
Filter, 1" Washable		2
Motorized Fresh Air Damper		2
V (LPC, LAC, ALR, DDC)		2
Supply Register		2
Return Register		2
HVAC Disconnect Switch, Eaton, DG322URB		2
HI/LO Temp Alarm Assembly		2
Thermostat, MC4002-A		2
Fire Detection Heat Detector		2
Aisle Heater		1
<u>MISC</u>		
TWO DOOR FREE STANDING TERMINATION CABINET		1
Fiber Entrance Cabinet		1
Smoke Detector		2
Fire Alarm Panel		1
Fire Extinguisher		2
Door Alarm Contacts		2
Door LHR Door Frame		1
Door RHR Door Frame		1
Door 3' x 7' LHR 16 Gauge		1
Door 3' x 7' RHR 16 Gauge		1
Personnel Door Sweeps		2
Personnel Door Gasketing		2

Personnel Door Threshold	2
Personnel Door Heavy Weight Hinges	6
Panic Door Hardware LHR	1
Panic Door Hardware RHR	1
Cable Tray, 6x24, 12'	As req'd
Cable Tray, 6x24, VOUT BEND	As req'd
Cable Tray, 6x24, HOR TEE	As req'd
Perimeter GROUND BUS	As req'd
NEMA Ground Connections	As req'd
Perimeter Wireway	As req'd
Misc. Cabling	As req'd
Filtered Ventilation Intake	1

Description	Qty
Misc. Equipment	
Breaker, Eaton, 15kV, 1200A, 40kA, 5 cycle, K=1, 150VCP-W40, with factory install wheels (ROF)	1
Breaker, Eaton, 38kV, 2000A, 40kA, 5 cycle, 380VCPW-HD 40	1
Charging motor for 15kV breaker	1
Charging motor for 38kV breaker	1
Spare Fuses	1
Spare Indicating Lamps	1
Door Keys	10



Investor-Owned Utility Reference List

Investor-Owned Utility Name	Equipment Description
<p>Ameren (U.E.) 1901 Chouteau Ave. St. Louis, MO 63103 Joseph Holleran jholleran@ameren.com</p>	<p>5kV, 3,000A, 250MVA PowerAisle II Metal-Clad Switchgear & Bus Duct</p> <p>5kV, 3,000A, 250MVA Indoor Metal-Clad Switchgear & Bus Duct</p> <p>15kV, 2,000A, 500MVA PowerAisle II Metal-Clad Switchgear & Bus Duct</p> <p>15kV, 2,000A, 500MVA Indoor Metal-Clad Switchgear & Bus Duct</p> <p>15kV, 3,000A, 500MVA PowerAisle II Metal-Clad Switchgear & Bus Duct</p> <p>Trailer Mounted 15kV, 3,000A Metal-Clad Switchgear Assembly</p> <p>15kV, Non-Segregated Bus Ducts</p> <p>15kV, 2,000A Transformer Enclosure and Bus Modification</p> <p>38kV, 1200A, 25kA PowerAisle Metal-Clad Switchgear</p>
<p>Energy, Inc. 1200 Main Street Kansas City, MO 64105 Gregory Elliott (816) 652-1581</p>	<p>15kV, 2,000A, 25kA 1-High, PowerAisle II Metal-Clad Switchgear</p> <p>5kV, 3,000A 2-High Indoor Metal-Clad Switchgear</p> <p>27kV, 3,000A, 25kA PowerAisle II Metal-Clad Switchgear</p>
<p>MidAmerican Energy 106 East Second Street Davenport, IA 52801 Kyle Walter (563) 333-8164 KKWalter@midamerican.com</p>	<p>15kV, 2,000A, 25kA 1-High PowerAisle II Metal-Clad Switchgear</p> <p>15kV, 3,000A, 25kA 1-High PowerAisle II Metal-Clad Switchgear</p> <p>15kV, 2,000A, Indoor Metal-Clad Match and Lineup Assembly</p> <p>38kV, 3,000A, 31.5kA PowerAisle Metal-Clad Switchgear</p>

Ref No: 23-11-27-01

Date: 12/5/2023

PROPOSAL



Rochelle Municipal Utilities

For Rte. 38 Substation Switchgear

Prepared by:

Jacob Brune

Avail Switchgear Systems – Med. Voltage Switchgear

Phone: 573.592.1219

Email: Jacob.Brune@availinfra.com



12/5/2023

Rochelle Municipal Utilities
420 N. 6th Street
Rochelle, IL 61068

Ref: Avail Switchgear Systems Proposal No. 23-11-27-01

Thank you for sending your Request for Proposal to Avail. In accordance with our interpretation of your plans and specifications, we are pleased to offer our proposal for the following equipment and services:

Item 1: Rte. 38 Substation Switchgear

The equipment we propose to supply will be designed, constructed and tested in accordance with your inquiry and the documents, which you have provided.

You will find additional attachments enclosed that supplement the information contained in our proposal. These include any information which you have specifically requested be included with our proposal and are identified at the end of this cover letter. With the exception of any comments contained in our proposal (or its attachments) that may be at variance with your requirements, our proposal is in strict accordance with your inquiry and specifications.

Upon your receipt and review of this proposal, we request the opportunity to meet with you to discuss the merits of what we have offered and how we intend to meet your requirements. Please accept our invitation to visit Avail Switchgear System's headquarters in Fulton, Missouri for a complete review of our engineering, manufacturing, and testing capabilities.

If you have any questions concerning this proposal or require further information, please contact your local Avail Switchgear Systems authorized sales representative:

Zachary Decker
Electrorep Energy Products, Inc.
2121 Schuetz Rd.
St. Louis, MO 63146
Phone: 1 (314) 991-2600
Fax: 1 (314) 991-3852
Email: zach@elecrep.com

Sincerely,



Avail
Jacob Brune
Sales Engineer

Attachments: Pricing Summary
Commercial Section
Technical Section
Avail Installation and Service Price Schedule
Avail Painting Procedure
Avail Proposed Redlined Terms and Conditions
Bid Form
Avail Cancellation Policy
Avail Escalation Policy
Non-Collusion Affidavit
Qualifications Form
Sample Test Report
Avail W9
Bid Bond
Avail Medium Voltage Switchgear Brochure
Avail Metal-Clad Switchgear Brochure

c: Mr. Zachary Decker, Avail Switchgear Systems Sales Representative
Mr. Justin Wilke, Avail Switchgear Systems Regional Sales Manager

PRICING SUMMARY

Avail Switchgear Systems Proposal No. 23-11-27-01

<u>Item</u>	<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>
1	1	15 / 38kV, 2000A, 40kA ShelterAisle Medium Voltage Switchgear, including freight, offload, and installation	\$2,672,000
2	1	Allowance No. 1	\$100,000
TOTAL BID PRICE			\$2,762,000
1a	1	Adder for Inclusion of Unit 12	\$93,000

Alternate Option #2 as requested in the bid package carries an adder of **\$637,000** to the above total price. This is a **preliminary** price only. Final confirmed specifications required to provide firm pricing on option 2.

Drawing and Delivery Times

Mechanical drawings for approval can be mailed in 20 weeks after receipt of your written order and complete engineering data. Shipment can be made within 50-54 weeks of receipt of your approved drawings at Avail and release to manufacture. These estimates do not include the time required for your review and approval of drawings. Please add the time anticipated for review and approval in order to obtain the total estimated project shipping time. **This brings the total lead time for delivery to 70-74 weeks ARO.** Drawing and shipment times are based upon Engineering and Shop loading at time of proposal. Please obtain firm time commitments from Avail at time of order placement.

Progress Payment Schedule required:

- 30% upon completion of ordering materials
- 30% upon start of fabrication on switchgear
- 30% upon start of assembly and wiring of switchgear
- 10% upon delivery

Payment terms are net 30 days from date of invoice, net 100%

Clarifications:

AVAIL designs and manufacturers and fully tests medium voltage switchgear to meet IEEE 37.20.2-2015 before leaving the factory. Certified test reports are available upon request. Sample test report and procedure is included with this proposal. Any field testing, programming of relays or commissioning of the switchgear on site is the responsibility of others and is not in AVAIL's scope of supply.

The offloading included in the above proposal pricing assumes the site will be free of overhead, underground, or grade level obstacles to allow adequate access for offloading the switchgear.

AVAIL designs and manufactures metalclad switchgear to meet IEEE C37.20.2-2015 usual service conditions, 3,300 feet max altitude, -30 +40 degree C. Operation of equipment outside these conditions are considered unusual conditions and a derating factor would be required to be applied by Rochelle Municipal Utilities or their consulting engineer.

AVAIL proposal includes epoxy bus insulation that is applied through a fluidized bed process for primary current carrying bus. This process allows for bus insulation that is adhered directly to the copper and minimizes any chance for air gaps between the bus and the insulation that could lead to future bus failure.

Please review preliminary Bill of Material provided for equipment to be supplied by AVAIL. No other equipment shall be assumed to be provided with this proposal unless explicitly stated otherwise.

Clarification for the primary fuses to be provided for the 75 kVA control power transformer. The fuse truck used is designed to break 130 mA (MAX). The total primary current of the unloaded transformer must not exceed 130 mA. The total primary current includes the cable charging current and the transformer primary excitation current. If BHMG or Rochelle Municipal Utilities anticipates the excitation current to exceed this value, please advise AVAIL. AVAIL should be able to modify fuse truck to accommodate higher excitation current if required.

AVAIL proposes that the equipment will meet the requirements of IEEE C37.20.2. The equipment proposed is not arc-resistant and does not meet the requirements of IEEE C37.20.7.

Unless explicitly stated otherwise, this proposal does not include any UL labeling, PE stamps, state certifications, or any other form of additional certification not provided by AVAIL.

Avail is providing commercial clarifications as an initial attempt at negotiation of terms and conditions, Agreement, and any other binding documentation should Avail be considered for award. Any clarifications provided are an initial attempt only and still negotiable, simply brought to the attention of Buyer as potential items that may need to be negotiated further if Avail is selected for Award.

Bid Form, Article 5, Schedule Guarantees: Avail proposes delivery of the switchgear in 70-74 weeks ARO. Following this schedule, assembly would be completed in 64-68 weeks ARO and factory testing in 67-71 weeks ARO. This preliminary schedule applies to both the originally requested lineup and the alternate option included in bid.

P-200 Instructions to Bidders

5.02.B: AVAIL has not visited the site where Goods are to be installed prior to submitting this bid. AVAIL assumes Buyer shall provide unimpeded site access for delivery and installation of equipment.

P-520 Agreement

5.01: Avail proposes removal of Time is of the Essence language. Avail recognizes that time is of the utmost importance.

7.02: Avail proposes the following progress payment schedule:

30% upon completion of ordering materials
30% upon start of fabrication on switchgear
30% upon start of assembly and wiring of switchgear
10% upon delivery

EJCDC P-700, Standard General Conditions for Procurement Contracts

Please see provided redlined document for reference marked up terms. This redlined document was from a previous Avail bid for BHMG

6.02.C: Clarification that this section states Buyer will be responsible and bear all costs for unloading the Goods from the carrier. Per Switchgear specs, 16352 – Outdoor Medium Voltage Metal Clad Switchgear Packages, Sections 3.2.C and D, unit shall be offloaded by manufacturer, anchored by the owner, and assembled by supplier / manufacturer. Clarification that Avail's proposal includes offloading and installation, with anchoring of equipment to be provided by Owner.

16352 – OUTDOOR MEDIUM VOLTAGE METAL CLAD SWITCHGEAR PACKAGES

Switchgear Spec, Section 2.2.B.1: Avail provides a fully welded seam roof design as opposed to a standing seam style as listed in this section of the specifications.

Switchgear Spec, Section 2.2.M.1.e: Avail includes provisions for the owner's anchoring as a standard.

Switchgear Spec, Section 2.3.C.5: Avail has included Eaton's standard remote racking device. Please advise if each breaker is required to have a racking motor permanently installed.

Switchgear Spec, Section 2.4.A.2: Clarification that the model of the 38kV breakers to be provided is Eaton's VCPW-HD. This section of specifications incorrectly lists this as "VCO-WC".

Switchgear Spec, Section 2.4.D: The proposed breakers come with wheel kits, so the lifting truck and yoke are not required.

Switchgear Spec, Section 2.4: Clarification that detailed specifications for 38kV rated breakers are not listed here as they are for 15kV Feeder and Main breakers in sub sections "B" and "C". The 38kV breakers to be provided will meet other characteristics of 15kV breakers (40kA short-circuit, 125VDC operating voltage, 60Hz frequency, etc.) for their respective amperage rating, only differing in electrical characteristics such as max interrupting rating (38kV vs. 15kV), BIL (150kV vs. 95), etc.

Drawing No. RMU-51.3

For the 15kV portion of the one-line, both the line and bus PTs are shown as coming off of unit 10. Final arrangement to be confirmed in design. This proposal includes the line PT in unit 10 and the bus PTs located in unit 11.

CPT in unit 11 is bubbled as "TBD". This CPT shows a capacity of 100kVA. This capacity of kVA pushes against size limitations for fitting in the rear of our provided cubicles. Avail is including in this proposal a 75kVA control power transformer per section 2.5.G of the specifications. Avail can provide a necessary price adjustment based upon final agreed upon design and arrangement.

Unit 12 is bubbled as “Hold”. This is further bubbled on drawing RMU-28.1. Avail is providing adder pricing for the inclusion of unit 12 (item 1a in the Pricing Summary) which includes equipment that was listed in BHMG provided BOM.

Rochelle Rte. 38 Sub Relay, Control, and Communication Equipment

Clarification that the model number of the Future Feeder Primary Relay is not a configurable item with SEL. Avail has assumed that this model number, listed as **075101A3A2A2B851C00**, should be the same model number as used on the Feeder units, which is **751101A3A2A2B851C00**.

Clarification on equipment listed for Unit #13. There is no Unit #13 shown in any other drawing provided or referenced in any other portion of specifications. Avail is not providing Unit #13 as a part of this proposal. IF this is later confirmed as needing to be included, Avail can provide an appropriate price adjustment.

COMMERCIAL SECTION

Avail Switchgear Systems Proposal No. 23-11-27-01

1. Unless otherwise noted, this quotation is per the Avail Standard Terms and Conditions of sale, dated 11/10/10, Rev. 0 attached and made part of our proposal and price.
2. Resulting orders shall be addressed as follows:

Avail Switchgear Systems
7911 Old US Hwy 54
Fulton, MO 65251
3. Our warranty covers a period of twelve (12) months from date of energization or eighteen (18) months from date of shipment, whichever occurs first or other period of time as agreed to in the purchase order. No in-and-out charges nor consequential damages are covered. Avail indemnifies for our gross negligence and willful misconduct only, throughout the warranty period. Indemnification is capped for the amount of the purchase order only.
4. No sales taxes, use taxes, duties or other fees, unless otherwise noted, are included in the prices quoted. Consequently, in addition to the purchase price, the amount of any present or future taxes, duties or fees must be paid by the purchaser.
5. Should the Purchaser request that Avail delay shipment, once manufacturing and testing are completed, Avail will store such equipment, subject to the following conditions:
 - a. Upon completion, the Purchaser will allow Avail to issue an invoice for the equipment and process said invoice, within the payment terms of the purchase order, as if the equipment had actually shipped.
 - b. Purchaser agrees to assume title and ownership of the equipment on the date the invoice is issued.
 - c. Purchaser agrees to pay Avail applicable handling and storage fees until time of shipment. If shipment is delayed for more than three months, an additional fee will be assessed for inspection and cleaning of the equipment prior to shipment.
 - d. Purchaser agrees to accept and sign a Bill & Hold Agreement that includes items a) through c) above.

6. Changes in scope of supply or delays caused by the Purchaser may also affect the project shipping schedule. Should it become necessary to reschedule due to a Purchaser-caused delay, Avail will make every effort to reschedule the job into the first available opening in our shop schedule which best meets the Purchaser's needs.
7. Our proposal price includes FOB Destination, with motor freight prepaid and allowed to the first designated delivery point. It will be the Buyer's sole responsibility to guarantee that field conditions are adequate to permit unobstructed motor freight access to the first designated delivery point. If unforeseen field conditions, or errors or omissions in the information supplied to Seller, with or without the Seller's aid, require additional handling and equipment to proceed to the first designated delivery point, the resulting additional costs will be assumed and paid by the Buyer. Should a Bill & Hold Agreement become necessary, as outlined in item 4 above, the terms will become FOB Factory with motor freight prepaid and added at actual cost.
8. Avail is a diverse manufacturer with a number of facilities focused solely on supplying custom electrical equipment enclosures. Avail will manufacture complete switchgear at one of the Switchgear Systems facilities. These are located in Fulton, MO, Oshkosh, WI, and Houston, TX. Avail may elect to utilize additional Avail facilities for manufacturing the enclosure. Avail will provide notification of final assembly and enclosure manufacturing location within four weeks after receipt of a purchase order.
9. Buyer acknowledges and agrees with the issue of a Purchase Order, that Avail shall not be liable in any way for delay in delivery of the equipment due to contingencies beyond our control. This includes, but is not limited to, weather, acts of God, acts of the buyer, buyer's failure to have the site ready, or any other event beyond Avail's reasonable control and that Avail shall be excused, discharged, and released of performance to the extent such performance is limited or prevented without liability for damages of any kind. Buyer also acknowledges any force majeure demur charges shall be the responsibility of the Buyer.
10. This proposal is valid for 30 days.
11. Prices are firm for quoted shipment.

TECHNICAL SECTION

Avail Switchgear Systems Proposal No. 23-11-27-01

1. Equipment offered will be designed and manufactured to appropriate ANSI, IEEE, and NEMA Standards.
2. All equipment will be tested in accordance with applicable ANSI production test standards prior to shipment. The Purchaser, or his designee, is welcome to inspect equipment prior to shipment at no additional cost.
3. Unless specified elsewhere in our proposal, no special, non-standard or other design tests have been included in our proposal.
4. We have not included any short circuit, relay coordination, or other system studies in our proposal.
5. No seismic calculations or seismic testing for the equipment proposed has been included. However, the equipment will be designed and manufactured for installation in the seismic zone that has been specified.
6. We have enclosed a preliminary BOM covering the equipment we are offering. Please review this information to confirm that we have interpreted your requirements accurately. Please note that this information is not intended to be all-inclusive, nor exclusive to what may be required to meet your specifications. The intent of our proposal is to comply with all of your specification requirements. The only exception to this would be any items that we may have specifically listed herein as not conforming to your specification.
7. Equipment will be painted per attached Avail paint standards. Our painting methods are in full compliance with current EPA and OSHA requirements.
8. It is our intent to comply with all ANSI and NEMA standards, as well as federal laws and regulations that apply to the equipment proposed herein. We are also willing to comply with any local laws or other regulations that may apply to the proposed equipment. However, it is the responsibility of the Purchaser to advise Avail what these laws and regulations are, in writing, prior to order entry.

Domestic Field Engineering Rate Schedule

Service Type	Straight Time	Overtime & Saturdays	Sundays & Holidays
Technician	\$236.00/Hour	\$354.00/Hour	\$472.00/Hour
Engineer	\$264.00/Hour	\$396.00/Hour	\$528.00/Hour

Straight Time is defined as time worked on a regular schedule of eight hours between 7:00AM and 6:00PM, Monday through Friday.

Overtime is defined as work performed in excess of eight hours or at times other than the regular Straight Time schedule, Monday through Friday.

Holidays are days that are scheduled as holidays for Avail personnel.

Travel time will be invoiced at the Straight Time rate for each hour of travel to and from the work site during any day of the week. Time is calculated portal to portal.

Minimum billing will be four (4) hours on any day that service is rendered. Fractions of an hour worked will be treated as whole hours.

Travel, living and incidental expenses will be invoiced at actual cost plus a 10% handling charge. Parts supplied or used will be invoiced at the prevailing price for such parts. Rental of equipment needed to perform the work will be invoiced at cost plus a 10% handling charge.

All field engineering work performed by Avail Switchgear Systems personnel is fully warranted and guaranteed.

A two (2) week advance notice for scheduling of field service is required, except in cases of emergency.

Payment for field engineering work is due and payable upon receipt of Avail Switchgear Systems invoice and support documentation.

Buyer acknowledges and agrees with the issue of a Purchase Order, that Avail shall not be liable in any way for delay in unloading, rigging, install and assembly of the equipment due to contingencies beyond our control. This includes, but is not limited to, weather, acts of God, acts of the Buyer, Buyer's failure to provide unimpeded site access, or any other event beyond Avail's reasonable control and that Avail shall be excused, discharged and released of performance to the extent such performance is limited or prevented without liability for damages of any kind.

Domestic Field Engineering Rate Schedule

If Avail Switchgear Systems Field Personnel are at the work site and available to work, but are prevented from performing work through no fault of their own, such time will be invoiced as if they had been working.

Any and all safety or other training required by Avail personnel before and during access to on-site service work that requires additional time (not communicated to Seller initially) shall be billed to the Buyer as an additional expense.

Avail Switchgear Systems Paint Procedures

1. All items to be painted are prepped using either mechanical or chemical methods (Phosphate wash for applicable metals) to properly prep the surface for paint adhesion. This prepping is followed by a wash of hot water to remove any excess debris or chemicals.
2. After the enclosure is completely air dried, it is moved into the paint booth. Rust or build-up of debris or left over chemicals will be inspected for and will be removed prior to painting.
3. Avail Switchgear Systems' standard enclosure undercoating is a single component rubber coating. The undercoating is thermally stable, and provides excellent resistance to humidity and corrosive environments.
4. Avail Switchgear Systems' standard primer is a two component epoxy primer. This is a high solids primer with an excellent balance of hardness, flexibility, and toughness. This coating is applied to a minimum Dry Film Thickness (DFT) of 1.5 on all exterior surfaces per manufacturer recommendation.
5. Avail Switchgear Systems' standard top coat is a high-solid, high-film build, two component polyurethane paint. The top coat is applied to a minimum DFT of 1.5 on all surfaces per manufacturer recommendation.
6. Avail Switchgear Systems' standard interior paint is a direct to metal, high solid, high-film build, two component polyurethane paint. This coating is applied to a minimum Dry Film Thickness of 2 mils per manufacturer recommendation.
7. The painted surfaces are allowed to dry, after which a paint inspection is performed to check for a quality finish to ensure uniformity and smoothness. The Dry Film Thickness is measured using an electronic type magnetic paint gauge. For exterior surfaces, a DFT of 3 mils is required (1.5 for primer and 1.5 for top coat). For interior surfaces a DFT of 2 mils is required.
8. Avail Switchgear Systems' exterior finishes have been successfully tested in accordance with ASTM B117 and IEEE std. C37.20.2 and ensures that test samples prepared in accordance with this procedure undergo a total of 2000 hours for salt spray testing.
9. Avail Switchgear Systems' standard floor coating is a two component epoxy that is direct to metal, high solid, high-film build. The system is applied to a mechanically profiled surface to promote adhesion for heavier traffic and heavier equipment.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

AVAIL REFERENCE REDLINES
**STANDARD GENERAL CONDITIONS
FOR PROCUREMENT CONTRACTS**

Prepared by



and

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These Standard General Conditions for Procurement Contracts have been prepared for use with the Suggested Instructions to Bidders for Procurement Contracts (EJCDC P-200, 2010 Edition), the Agreement Between Buyer and Seller for Procurement Contracts (EJCDC P-520, 2010 Edition), and the Guide to Preparation of Supplementary Conditions for Procurement Contracts (EJCDC P-800, 2010 Edition). Their provisions are interrelated and a change in one may necessitate a change in the others. Additional information concerning the use of the EJCDC Procurement Documents may be found in the Commentary on Procurement Documents (EJCDC P-001, 2010 Edition).

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STANDARD GENERAL CONDITIONS FOR PROCUREMENT CONTRACTS

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Whenever used in the Bidding Requirements or Contract Documents 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 Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument signed by both Buyer and Seller covering the Goods and Special Services and which lists the Contract Documents in existence on the Effective Date of the Agreement.
 3. *Application for Payment*—The form acceptable to Buyer which is used by Seller in requesting progress and final payments and which is accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*— The offer or proposal of a Seller submitted on the prescribed form setting forth the prices for the Goods and Special Services to be provided.
 5. *Bidder*—The individual or entity that submits a Bid directly to Buyer.
 6. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and Bid Form with any supplements.
 8. *Buyer*—The individual or entity purchasing the Goods and Special Services.
 9. *Change Order*—A document which is signed by Seller and Buyer and authorizes an addition, deletion, or revision to the Contract Documents or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the

Agreement. Change Orders may be the result of mutual agreement by Buyer and Seller, or of resolution of a Claim.

10. *Claim*—A demand or assertion by Buyer or Seller seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
11. *Contract*—The entire and integrated written agreement between Buyer and Seller concerning the Goods and Special Services. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
12. *Contract Documents*—Those items so designated in the Agreement. Shop Drawings and other Seller submittals are not Contract Documents, even if accepted, reviewed, or approved by Engineer or Buyer.
13. *Contract Price*—The moneys payable by Buyer to Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as stated in the Agreement.
14. *Contract Times*—The times stated in the Agreement by which the Goods must be delivered and Special Services must be furnished.
15. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Goods and Special Services to be furnished by Seller. Shop Drawings and other Seller submittals are not Drawings as so defined.
16. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
17. *Engineer*—The individual or entity designated as such in the Agreement.
18. *Field Order*—A written order issued by Engineer which requires minor changes in the Goods or Special Services but which does not involve a change in the Contract Price or Contract Times.
19. *General Requirements*—Sections of Division I of the Specifications. The General Requirements pertain to all sections of the Specifications.
20. *Goods*—The tangible and movable personal property that is described in the Contract Documents, regardless of whether the property is to be later attached to realty.
21. *Goods and Special Services*—The full scope of materials, equipment, other items, and services to be furnished by Seller, including Goods, as defined herein, and

- Special Services, if any, as defined herein. This term refers to both the Goods and the Special Services, or to either the Goods or the Special Services, and to any portion of the Goods or the Special Services, as the context requires.
22. *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.
 23. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to the Contract Times.
 24. *Notice of Award*—The written notice by Buyer to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Buyer will sign and deliver the Agreement.
 25. *Notice to Proceed*—A written notice given by Buyer to Seller fixing the date on which the Contract Times commence to run and on which Seller shall start to perform under the Contract.
 26. *Point of Destination*—The specific address of the location where delivery of the Goods shall be made, as stated in the Agreement.
 27. *Project*—The total undertaking of which the Goods and Special Services may be the whole, or only a part.
 28. *Project Manual*—The documentary information prepared for bidding and furnishing the Goods and Special Services. A listing of the contents of the Project Manual is contained in its table of contents.
 29. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Goods and Special Services and which establish the standards by which such portion of the Goods and Special Services will be judged.
 30. *Seller*—The individual or entity furnishing the Goods and Special Services.
 31. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Seller and submitted by Seller to illustrate some portion of the Goods and Special Services.
 32. *Special Services*—Services associated with the Goods to be furnished by Seller as required by the Contract Documents.
 33. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as

applied to the furnishing of the Goods and Special Services, and certain administrative requirements and procedural matters applicable thereto.

34. *Successful Bidder*—The Bidder submitting a responsive Bid, to whom Buyer makes an award.
35. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
36. *Work Change Directive*—A written statement to Seller issued on or after the Effective Date of the Agreement and signed by Buyer ordering an addition, deletion, or other revision in the Contract Documents with respect to the Goods and Special Services. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

1. The words and terms discussed in Paragraphs 1.02.B and 1.02.C are not defined, but have the indicated meanings when used in the Bidding Requirements or Contract Documents.
2. *Intent of Certain Terms or Adjectives:*
 1. The Contract Documents include 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 Goods and Special Services. It is intended that such exercise of professional judgment, action, or determination will be commercially reasonable and will be solely to evaluate, in general, the Goods and Special Services for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (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 Goods or Special Services or any duty or authority to undertake responsibility contrary to any other provision of the Contract Documents.
 2. The word “non-conforming” when modifying the words “Goods and Special Services,” “Goods,” or “Special Services,” refers to Goods and Special Services that fail to conform to the Contract Documents.

3. The word "receipt" when referring to the Goods, shall mean the physical taking and possession by the Buyer under the conditions specified in Paragraph 8.01.B.3.
 4. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
 5. The word "furnish," when used in connection with the Goods and Special Services shall mean to supply and deliver said Goods to the Point of Destination (or some other specified location) and to perform said Special Services fully, all in accordance with the Contract Documents.
3. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

- A. When Seller delivers the executed counterparts of the Agreement to Buyer, Seller also shall deliver such bonds as Seller may be required to furnish.

2.02 *Evidence of Insurance*

- A. When Seller delivers the executed counterparts of the Agreement to Buyer, Seller shall deliver to Buyer, with copies to each additional insured identified by name in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Seller is required to purchase and maintain in accordance with Article 4.

2.03 *Copies of Documents*

- A. Buyer shall furnish Seller up to five printed or hard copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.04 *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 Agreement 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 Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.05 Designated Representatives

- A. Buyer and Seller shall each designate its representative at the time the Agreement 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.

2.06 Progress Schedule

- A. Within 15 days after the Contract Times start to run, Seller shall submit to Buyer and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Contract Documents. No progress payment will be made to Seller until an acceptable schedule is submitted to Buyer and Engineer.
- B. The progress schedule will be acceptable to Buyer 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 Buyer or Engineer responsibility for the progress schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Seller from Seller'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 Seller, Buyer, Engineer and others as appropriate will be held to establish a working understanding among the parties as to the Goods 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.

2.08 Safety

- A. Buyer and Seller shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss. When Seller's personnel, or the personnel of any subcontractor to Seller, are present at the Point of Destination or any work area or site controlled by Buyer, the Seller shall be responsible for the compliance by such personnel with any applicable requirements of Buyer's safety programs that are made known to Seller.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT AND AMENDING

3.01 Intent

- A. The 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 Contract Documents or from prevailing custom or trade usage as being required to produce or furnish the indicated Goods and Special Services will be provided, whether or not specifically called for, at no additional cost to Buyer.
- C. Clarifications and interpretations of, or notifications of minor variations and deviations in, the Contract Documents, will be issued by Engineer as provided in Article 9.

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

- 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 Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- 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 Buyer or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to Buyer or Engineer, or any of their consultants, agents, or employees any duty or authority to supervise or direct the performance of Seller's obligations or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Seller's Review of Contract Documents Before the Performance of the Contract:*
Before performance of the Contract, Seller shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Seller shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Seller discovers or has actual knowledge of and shall obtain a written interpretation or clarification from Engineer before proceeding with the furnishing of any Goods and Special Services affected thereby.
2. *Seller's Review of Contract Documents During the Performance of the Contract:*
If, during the performance of the Contract, Seller discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Contract, any standard, specification, manual or code, or of any instruction of any Supplier, Seller shall promptly report it to Engineer in writing. Seller shall not proceed with the furnishing of the Goods and Special Services

affected thereby until an amendment to or clarification of the Contract Documents has been issued.

3. Seller shall not be liable to Buyer or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Seller had actual knowledge thereof.
- B. *Resolving Discrepancies:* Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
1. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
 2. the provisions of any Laws or Regulations applicable to the furnishing of the Goods and Special Services (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Clarifying Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions to the Goods and Special Services or to modify contractual terms and conditions by a Change Order.
- B. Buyer may issue a Work Change Directive providing for additions, deletions, or revisions to the Goods and Special Services, in which case (1) the Contract Price shall be equitably adjusted to account for any reasonable and necessary credits to Buyer for any such deletion, or for costs (including reasonable overhead and profit) incurred by Seller to accommodate such an addition or revision and (2) the Contract Times shall be equitably adjusted to account for any impact on progress and completion of performance. Such adjustments subsequently shall be duly set forth in a Change Order.
- C. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Goods and Special Services may be authorized, by one or more of the following ways:
1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 5.06.D.3); or
 3. Engineer's written interpretation or clarification.

ARTICLE 4 - BONDS AND INSURANCE

4.01 Bonds

- A. Seller shall furnish to Buyer performance and payment bonds, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Seller's obligations under the Contract Documents. These bonds shall remain in effect until 1) one year after the date when final payment becomes due or 2) completion of the correction period specified in Paragraph 8.03, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Seller shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.
- C. If the surety on any bond furnished by Seller is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 4.01.B, Seller shall promptly notify Buyer and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 4.01.B and 4.02.

4.02 Insurance

- A. Seller shall provide insurance of the types and coverages and in the amounts stipulated in the Supplementary Conditions.
- B. Failure of Buyer to demand certificates of insurance or other evidence of Seller's full compliance with these insurance requirements or failure of Buyer to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Seller's obligation to maintain such insurance.
- C. Upon assignment of this Contract, Seller shall comply with the written request of assignee to provide certificates of insurance to assignee.
- D. Buyer does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Seller.

~~E. The insurance and insurance limits required herein shall not be deemed as a limitation on Seller's liability under the indemnities granted to Buyer in the Contract Documents.~~

4.03 Licensed Sureties and Insurers

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Buyer or Seller shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

ARTICLE 5 – SELLER’S RESPONSIBILITIES

5.01 Supervision and Superintendence

- A. Seller shall supervise, inspect, and direct the furnishing of the Goods and Special Services competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform its obligations in accordance with the Contract Documents. Seller shall be solely responsible for the means, methods, techniques, sequences, and procedures necessary to perform its obligations in accordance with the Contract Documents. Seller shall not be responsible for the negligence of Buyer or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure that is shown or indicated in and expressly required by the Contract Documents.

5.02 Labor, Materials and Equipment

- A. Seller shall provide competent, qualified and trained personnel in all aspects of its performance of the Contract.
- B. All Goods, and all equipment and material incorporated into the Goods, shall be as specified, and unless specified otherwise in the Contract Documents, shall be:
 - 1. new, and of good quality;
 - 2. protected, assembled, connected, cleaned, and conditioned in accordance with the original manufacturer’s instructions; and
 - 3. shop assembled to the greatest extent practicable.

5.03 Laws and Regulations

- A. Seller shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of its obligations in accordance with the Contract Documents. Except where otherwise expressly required by such Laws and Regulations, neither Buyer nor Engineer shall be responsible for monitoring Seller’s compliance with any Laws or Regulations.

- B. If Seller furnishes Goods and Special Services knowing or having reason to know that such furnishing is contrary to Laws or Regulations, Seller shall bear all claims, costs, losses, and damages (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 such performance. It shall not be Seller's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this provision shall not relieve Seller of Seller's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance shall be the subject of an adjustment in Contract Price or Contract Times. If Buyer and Seller 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.

5.04 Or Equals

- A. Whenever the Goods, or an item of material or equipment to be incorporated into the Goods, are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier or manufacturer, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item is permitted, other items of material or equipment or material or equipment of other suppliers or manufacturers may be submitted to Buyer for Engineer's review.
1. If in Engineer's sole discretion, such an item of material or equipment proposed by Seller is functionally equal to that named and sufficiently similar so that no change in related work will be required, it may be considered by Engineer as an "or-equal" item.
 2. For the purposes of this paragraph, a proposed item of material or equipment may be considered functionally equal to an item so named only if:
 - a. in the exercise of reasonable judgment, Engineer determines that: 1) it is at least equal in quality, durability, appearance, strength, and design characteristics; 2) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; 3) it has an acceptable record of performance and availability of responsive service; and
 - b. Seller certifies that if approved: 1) there will be no increase in any cost, including capital, installation or operating costs, to Buyer; and 2) the proposed

item will conform substantially to the detailed requirements of the item named in the Contract Documents.

- B. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraph 5.04.A. Engineer will be the sole judge of whether to accept or reject such a proposal or submittal. 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 Buyer and Seller in writing of any negative determination. Notwithstanding Engineer's approval of an "or-equal" item, Seller shall remain obligated to comply with the requirements of the Contract Documents.
- C. *Special Guarantee:* Buyer may require Seller to furnish at Seller's expense a special performance guarantee or other surety with respect to any such proposed "or-equal."
- D. *Data:* Seller shall provide all data in support of any such proposed "or-equal" at Seller's expense.

5.05 Taxes

- A. Seller shall be responsible for all taxes and duties arising out of the sale of the Goods and the furnishing of Special Services. All taxes are included in the Contract Price, except as noted in the Supplementary Conditions.

5.06 Shop Drawings and Samples

- A. Seller shall submit Shop Drawings and Samples to Buyer for Engineer's review and approval 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 Contract Documents. 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 Seller proposes to provide.
- B. Where a Shop Drawing or Sample is required by the Contract Documents, any related work performed prior to Engineer's approval of the pertinent submittal will be at the sole expense and responsibility of Seller.
- C. *Submittal Procedures:*
 - I. Before submitting each Shop Drawing or Sample, Seller 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 the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the furnishing of Goods and Special Services.
2. Seller shall also have reviewed and coordinated each Shop Drawing or Sample with the Contract Documents.
3. Each submittal shall bear a stamp or include a written certification from Seller that Seller has reviewed the subject submittal and confirmed that it is in compliance with the requirements of the Contract Documents. Both Buyer and Engineer shall be entitled to rely on such certification from Seller.
4. With each submittal, Seller shall give Buyer and Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. 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 and approval will be only to determine if the Goods and Special Services covered by the submittals will, after installation or incorporation in the Project, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole.
3. Engineer's review and approval shall not relieve Seller from responsibility for any variation from the requirements of the Contract Documents unless Seller has complied with the requirements of Paragraph 5.06.C.4 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Seller from responsibility for complying with the requirements of Paragraph 5.06.C.1.

E. Resubmittal Procedures:

1. Seller 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 and approval. Seller 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. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06.A., and the Goods shall be delivered and the Special Services furnished within the Contract Times specified in the Agreement.
- B. Seller shall carry on furnishing of the Goods and Special Services and adhere to the progress schedule during all disputes or disagreements with Buyer. No furnishing of Goods and Special Services shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraphs 11.03 or 11.04, or as Buyer and Seller may otherwise agree in writing.

5.08 *Seller's Warranties and Guarantees*

- A. Seller warrants and guarantees to Buyer that the title to the Goods conveyed shall be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance, provided Buyer is in compliance with its payment obligations herein. Seller shall defend, indemnify, and hold Buyer harmless against any liens, claims, or demands contesting or affecting title of the Goods conveyed, provided Buyer is in compliance with its payment obligations herein.
- B. Seller warrants and guarantees to Buyer that all Goods and Special Services will conform with the Contract Documents, and with the standards established by any Samples approved by Engineer. Engineer shall be entitled to rely on Seller's warranty and guarantee. If the Contract Documents do not otherwise specify the characteristics or the quality of the Goods, the Goods shall comply with the requirements of Paragraph 5.02.B. However, that this warranty shall terminate on the date twelve (12) months from the date of shipment. In the event any service supplied or product sold hereunder manufactured by the SELLER is defective due to workmanship or material, the SELLER agrees for a period of twelve (12) months from the date of shipment, at its option, to correct such non-conformity or replace such defective part or product. The agreement, however, is upon condition that the BUYER promptly notifies the SELLER in writing of any claim in this respect, setting forth in detail any such claimed defect and that the SELLER be afforded a reasonable opportunity to examine the product and to investigate the claimed defect.

EXCEPT AS EXPRESSLY STATED HEREIN, ALL WARRANTIES OF SELLER AND ITS AFFILIATES, WHETHER WRITTEN, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, AND ALL REPRESENTATIONS, GUARANTEES, PROMISES, DESCRIPTIONS AND SAMPLES FROM SELLER OR ITS AFFILIATES OF, OR PERTAINING TO, QUALITY, COMPOSITION, CHARACTERISTICS, ENVIRONMENTAL OR HUMAN SAFETY OR HAZARD OR HEALTH AFFECTS, PERFORMANCE OR LIKE MATTERS RELATING TO THE PRODUCTS OR SERVICES DELIVERED OR PERFORMED HEREUNDER ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. WITHOUT LIMITATION OF THE FOREGOING SENTENCE, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED.

CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE SELLER'S SOLE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR FAILURE OF SELLER TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF THE PURCHASER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE.

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

1. abuse, improper modification, improper maintenance, or improper operation by persons other than Seller; or
2. corrosion or chemical attack, unless corrosive or chemically-damaging conditions were disclosed by Buyer in the Contract Documents and the Contract Documents required the Goods to withstand such conditions;
3. use in a manner contrary to Seller's written instructions for installation, operation, and maintenance; or
4. normal wear and tear under normal usage.

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

1. observations by Buyer or Engineer;

Remainder of page intentionally left blank.

2. recommendation by Engineer or payment by Buyer of any progress or final payment;
3. use of the Goods by Buyer;
4. any acceptance by Buyer (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 Buyer pursuant to the provisions of Article 8;
6. any inspection, test or approval by others; or
7. any correction of non-conforming Goods and Special Services by Buyer.

D.E. Buyer shall promptly notify Seller of any breach of Seller's warranties or guarantees.

E.F. Seller makes no implied warranties under this Contract.

5.09 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, Seller shall indemnify and hold harmless Buyer and Engineer, and the officers, directors, members, partners, employees, agents, consultants, contractors, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (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 ~~the Seller's~~ performance of Seller's obligations under the Contract Documents, provided that any such claim, cost, loss, or damages attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Goods themselves), ~~including the loss of use resulting therefrom~~, but only to the extent cause by any negligent act or omission of Seller, or any individual or entity directly or indirectly employed by Seller or anyone for whose acts Seller may be liable.
- B. ~~In any and all claims against Buyer or Engineer or any of their respective assignees, consultants, agents, officers, directors, members, partners, employees, agents, consultants, contractors, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Seller, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to furnish any of the Goods and Special Services, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 5.09.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for seller or any such subcontractor, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.~~

- C. The indemnification obligations of Seller under Paragraph 5.09.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, and consultants arising out of:
1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

5.10 Delegation of Professional Design Services

- A. Seller will not be required to provide professional design services unless such services are specifically required by the Contract Documents or unless such services are required to carry out Seller's responsibilities for furnishing the Goods and Special Services. Seller shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to the Goods and Special Services are specifically required of Seller by the Contract Documents, Buyer and Engineer will specify all performance and design criteria that such services must satisfy. Seller shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Goods and Special Services designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Buyer and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Buyer and Engineer have specified to Seller all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 5.10, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 5.06.D.2.
- E. Seller shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 6 – SHIPPING AND DELIVERY

6.01 Shipping

- A. Seller 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. Seller shall deliver the Goods F.O.B. the Point of Destination in accordance with the Contract Times set forth in the Agreement, or other date agreed to by Buyer and Seller.
- B. Seller shall provide written notice to Buyer at least 10 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 Goods. Seller shall also require the carrier to give Buyer at least 24 hours notice by telephone prior to the anticipated time of delivery.
- C. Buyer will be responsible and bear all costs for unloading the Goods from carrier.
- D. Buyer will assure that adequate facilities are available to receive delivery of the Goods during the Contract Times for delivery set forth in the Agreement, or another date agreed by Buyer and Seller.
- E. No partial deliveries shall be allowed, unless permitted or required by the Contract Documents or agreed to in writing by Buyer.

6.03 Risk of Loss

- A. Risk of loss and insurable interests transfer from Seller to Buyer upon Buyer's receipt of the Goods.
- ~~B. Notwithstanding the provisions of Paragraph 6.03.A, if Buyer rejects the Goods as non-conforming and the Goods have not been off loaded, the risk of loss on such Goods shall remain with Seller until Seller corrects the non-conformity or Buyer accepts the Goods. If rejected Goods remain at the Point of Destination pending modification and acceptance, then Seller shall be responsible for arranging adequate protection and maintenance of the Goods at Seller's expense.~~

6.04 Progress Schedule

- A. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06 as it may be adjusted from time to time as provided below.
 - I. Seller shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.06) proposed adjustments in the progress schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 7. Adjustments in Contract Times may only be made by a Change Order.

ARTICLE 7 – CHANGES: SCHEDULE AND DELAY

7.01 *Changes in the Goods and Special Services*

- A. Buyer may at any time, without notice to any surety, make an addition, deletion, or other revision to the Contract Documents with respect to the Goods and Services, within the general scope of the Contract, by a Change Order or Work Change Directive. Upon receipt of any such document, Seller shall promptly proceed with performance pursuant to the revised Contract Documents (except as otherwise specifically provided).
- B. If Seller concludes that a Work Change Directive issued by Buyer affects the Contract Price or Contract Times, then Seller shall notify Buyer within 15 days after Seller has received the Work Change Directive, and submit written supporting data to Buyer within 45 days after such receipt. If Seller fails to notify Buyer within 15 days, Seller waives any Claim for such adjustment. If Buyer and Seller are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 9.06.
- C. Seller shall not suspend performance while Buyer and Seller are in the process of making such changes and any related adjustments to Contract Price or Contract Times.

7.02 *Changing Contract Price or Contract Times*

- A. The Contract Price or Contract Times may only be changed by a Change Order.
- B. Any Claim for an adjustment in the Contract Price or Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 9.06.
- C. If Seller is prevented from delivering the Goods 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 Seller shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include but are not limited to acts or neglect by Buyer, inspection delays, fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters. If such an event occurs and delays Seller's performance, Seller shall notify Buyer in writing within 15 days of knowing or having reason to know of the beginning of the event causing the delay, stating the reason therefor.
- D. Seller shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Seller. Delays attributable to and within the control of

Seller's subcontractors or suppliers shall be deemed to be delays within the control of Seller unless such delays are as a result of 7.02.F.

- E. If Seller is prevented from delivering the Goods or furnishing the Special Services within the Contract Times due to the actions or inactions of Buyer, Seller shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Buyer.
- F. Neither Buyer nor Seller shall be entitled to any damages arising from delays which are beyond the control of both Buyer and Seller, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters.

ARTICLE 8 – BUYER'S RIGHTS

8.01 *Inspections and Testing*

A. *General:*

1. The Contract Documents specify required inspections and tests. Buyer shall have the right to perform, or cause to be performed, reasonable inspections and require reasonable tests of the Goods at Seller's facility, and at the Point of Destination. Seller shall allow Buyer a reasonable time to perform such inspections or tests.
2. Seller shall reimburse Buyer for all expenses, except for travel, lodging, and subsistence expenses of Buyer's and Engineer's representatives, for inspections and tests specified in the Contract Documents. If as the result of any such specified testing the Goods are determined to be non-conforming, then Seller shall also bear the travel, lodging, and subsistence expenses of Buyer's and Engineer's representatives, and all expenses of re-inspection or retesting.
3. Buyer shall bear all expenses of inspections and tests that are not specified in the Contract Documents (other than any re-inspection or retesting resulting from a determination of non-conformity, as set forth in Paragraph 8.01.A.2 immediately above); provided, however, that if as the result of any such non-specified inspections or testing the Goods are determined to be non-conforming, then Seller shall bear all expenses of such inspections and testing, and of any necessary re-inspection and retesting.
4. Seller shall provide Buyer timely written notice of the readiness of the Goods for all inspections, tests, or approvals which the Contract Documents specify are to be observed by Buyer prior to shipment.
5. Buyer will give Seller timely notice of all specified tests, inspections, and approvals of the Goods which are to be conducted at the Point of Destination.
6. If, on the basis of any inspections or testing, the Goods appear to be conforming, Buyer will give Seller prompt notice thereof. If on the basis of said inspections or

testing, the Goods appear to be non-conforming, Buyer will give Seller prompt notice thereof and will advise Seller of the remedy Buyer elects under the provisions of Paragraph 8.02.

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

B. Inspection on Delivery:

1. Buyer or Engineer will visually inspect the Goods upon delivery solely for purposes of identifying the Goods and general verification of quantities and observation of apparent condition in order to provide a basis for a progress payment. Such visual inspection will not be construed as final or as receipt of any Goods and Special Services that, as a result of subsequent inspections and tests, are determined to be non-conforming.
2. Within ten days of such visual inspection, Buyer shall provide Seller with written notice of Buyer's determination regarding conformity of the Goods. In the event Buyer does not provide such notice, it will be presumed that the Goods appear to be conforming and that Buyer has acknowledged their receipt upon delivery.
3. If, on the basis of the visual inspection specified in Paragraph 8.01.B.1, the Goods appear to be conforming, Buyer's notice thereof to Seller will acknowledge receipt of the Goods.

C. Final Inspection:

1. After all of the Goods have been incorporated into the Project, tested in accordance with such testing requirements as are specified, and are functioning as indicated, Buyer or Engineer will make a final inspection.
2. If, on the basis of the final inspection, the Goods are conforming, Buyer's notice thereof will constitute Buyer's acceptance of the Goods.
3. If, on the basis of the final inspection, the Goods are non-conforming, Buyer will identify the non-conformity in writing.

8.02 *Non-Conforming Goods and Special Services*

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

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

~~B. Buyer's Rejection of Non-Conforming Goods:~~

- ~~1. If Buyer elects to reject the Goods in whole or in part, Buyer's notice to Seller will describe in sufficient detail the non-conforming aspect of the Goods. If Goods have been delivered to Buyer, Seller shall promptly, and within the Contract Times, remove and replace the rejected Goods.~~
- ~~2. Seller shall bear all costs, losses and damages attributable to the removal and replacement of the non-conforming Goods as provided in Paragraph 8.02.E.~~
- ~~3. Upon rejection of the Goods, Buyer retains a security interest in the Goods to the extent of any payments made and expenses incurred in their testing and inspection.~~

~~C.B. Remedying Non-Conforming Goods and Special Services:~~

- ~~1. If Buyer elects to permit the Seller to elect to modify the Goods to correct the non-conformance, then Seller shall promptly provide a schedule for such modifications and shall make the Goods conforming within a reasonable time.~~
- ~~2. If Buyer notifies Seller in writing that any of the Special Services are non-conforming, Seller shall promptly provide conforming services acceptable to Buyer. If Seller fails to do so, Buyer may delete the Special Services and reduce the Contract Price a commensurate amount.~~

~~D.C. Buyer's Acceptance of Non-Conforming Goods:~~

~~Instead of requiring correction or removal and replacement of non-conforming Goods discovered either before or after final payment, Buyer may accept the non-conforming Goods. Seller shall reduce the contract price accordingly as agreed upon by both parties bear all reasonable costs, losses, and damages for attributable to Buyer's evaluation of and determination to accept such non-conforming Goods as provided in Paragraph 8.02.E.~~

~~E.D. Seller shall pay all claims, costs, losses, and damages, including but not limited to all fees and charges for re-inspection, 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 Goods and Special Services. Seller's obligations shall include the costs of the correction or removal and replacement of the non-conforming Goods and the replacement of property of Buyer and others destroyed by the correction or removal and replacement of the non-conforming Goods, and obtaining conforming Special Services from others.~~

~~F. Buyer's Rejection of Conforming Goods:~~

~~If Buyer asserts that Goods and Special Services are non-conforming and such Goods and Special Services are determined to be conforming, or if Buyer rejects as non-conforming Goods and Special Services that are later determined to be conforming, then Seller shall be entitled to reimbursement from Buyer of costs incurred by Seller in inspecting, testing, correcting, removing, or replacing the conforming Goods and Special Services, including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs associated with the incorrect assertion of non-conformance or rejection of conforming Goods and Special Services.~~

8.03 Correction Period

- A. Seller's responsibility for correcting all non-conformities in the Goods and Special Services will extend for a period of one year after the earlier of the date on which Buyer has placed the Goods in continuous service or the date of final payment, however, in no event shall the correction period exceed eighteen (18) months from the date of shipment, or for such longer period of time as may be prescribed by Laws or Regulations ~~or by the terms of any specific provisions of the Contract Documents.~~

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 Contract Documents.

9.02 Clarifications and Interpretations

- A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Such written clarifications and interpretations will be binding on Buyer and Seller. If either Buyer or Seller 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 Contract Documents by: 1) written approval of specific variations set forth in Shop Drawings when Seller has duly noted such variations as required in Paragraph 5.06.C.4. or 2) a Field Order.

9.04 Rejecting Non-Conforming Goods and Special Services

- A. Engineer will have the authority to disapprove or reject Goods and Special Services that Engineer believes to be non-conforming. Engineer will also have authority to require

special inspection or testing of the Goods or Special Services as provided in Paragraph 8.01 whether or not the Goods are fabricated or installed, or the Special Services are completed.

9.05 Decisions on Requirements of Contract Documents

- A. Engineer will be the initial interpreter of the Contract Documents and judge of the acceptability of the Goods and Special Services. Claims, disputes and other matters relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to Seller'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 Buyer or Seller 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 Buyer or Seller of such rights or remedies as either may otherwise have under the Contract Documents 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 relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to either party's performance shall be delivered by the claimant to Engineer and the other party to the Agreement within 15 days after the occurrence of the event giving rise thereto, and written supporting data shall 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 review each such Claim and 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.
- C. If Engineer does not render a formal written decision on a Claim within the time stated in Paragraph 9.06.B., Engineer shall be deemed to have issued a decision denying the Claim in its entirety 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.
- D. Engineer's written decision on such Claim or a decision denying the Claim in its entirety that is deemed to have been issued pursuant to Paragraph 9.06.C, will be final and binding upon Buyer and Seller 930 days after it is issued unless within 930 days of issuance Buyer or Seller appeals Engineer's decision by initiating the mediation of such Claim in accordance with the dispute resolution procedures set forth in Article 13.

- E. If Article 13 has been amended to delete the mediation requirement, then Buyer or Seller may appeal Engineer's decision within 30 days of issuance by following the alternative dispute resolution process set forth in Article 13, as amended; or if no such alternative dispute resolution process has been set forth, Buyer or Seller may appeal Engineer's decision by 1) delivering to the other party within 30 days of the date of such decision a written notice of intent to submit the Claim to a court of competent jurisdiction, and 2) within 60 days after the date of such decision instituting a formal proceeding in a court of competent jurisdiction.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 9.06.
- G. The parties agree to endeavor to avoid or resolve Claims through direct, good faith discussions and negotiations whenever practicable. Such discussions and negotiations should at the outset address whether the parties mutually agree to suspend the time periods established in this Paragraph 9.06; if so, a written record of such mutual agreement should be made and jointly executed.

ARTICLE 10 – PAYMENT

10.01 Applications for Progress Payments

- A. Seller shall submit to Buyer for Engineer's review Applications for Payment filled out and signed by Seller and accompanied by such supporting documentation as is required by the Contract Documents and also as Buyer or Engineer may reasonably require. The timing and amounts of progress payments shall be as stipulated in the Agreement.
 - 1. The first application for Payment will be submitted after review and approval by Engineer of all Shop Drawings and of all Samples required by the Contract Documents.
 - 2. The second Application for Payment will be submitted after receipt of the Goods has been acknowledged in accordance with Paragraph 8.01.B and will be accompanied by a bill of sale, invoice, or other documentation reasonably satisfactory to Buyer warranting that Buyer has rightfully received good title to the Goods from Seller and that, upon payment, the Goods will be free and clear of all liens. Such documentation will include releases and waivers from all parties with viable lien rights. In the case of multiple deliveries of Goods, additional Applications for Payment accompanied by the required documentation will be submitted as Buyer acknowledges receipt of additional items of the Goods.

10.02 Review of Applications for Progress Payments

- A. Engineer will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Buyer, or return the Application to Seller indicating in writing Engineer's reasons for refusing to

recommend payment. In the latter case, Seller may make the necessary corrections and resubmit the Application.

1. Engineer's recommendation of payment requested in the first Application for Payment will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data, that the Shop Drawings and Samples have been reviewed and approved as required by the Contract Documents and Seller is entitled to payment of the amount recommended.
2. Engineer's recommendation of payment requested in the Application for Payment submitted upon Buyer's acknowledgment of receipt of the Goods will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data Seller is entitled to payment of the amount recommended. Such recommendation will not constitute a representation that Engineer has made a final inspection of the Goods, that the Goods are free from non-conformities, acceptable or in conformance with the Contract Documents, that Engineer has made any investigation as to Buyer's title to the Goods, that exhaustive or continuous inspections have been made to check the quality or the quantity of the Goods beyond the responsibilities specifically assigned to Engineer in the Contract Documents or that there may not be other matters or issues between the parties that might entitle Seller to additional payments by Buyer or Buyer to withhold payment to Seller.
3. Engineer may refuse to recommend that all or any part of a progress payment be made, or Engineer may nullify all or any part of any payment previously recommended if, in Engineer's opinion, such recommendation would be incorrect or if on the basis of subsequently discovered evidence or subsequent inspections or tests Engineer considers such refusal or nullification necessary to protect Buyer from loss because the Contract Price has been reduced, Goods are found to be non-conforming, or Seller has failed to furnish acceptable Special Services.

10.03 Amount and Timing of Progress Payments

- A. Subject to Paragraph 10.02.A., the amounts of the progress payments will be as provided in the Agreement. Buyer shall within 30 days after receipt of each Application for Payment with Engineer's recommendation pay Seller the amount recommended; but, in the case of the Application for Payment upon Buyer's acknowledgment of receipt of the Goods, said 30-day period may be extended for so long as is necessary (but in no event more than 60 days) for Buyer to examine the bill of sale and other documentation submitted therewith. Buyer shall notify Seller promptly of any deficiency in the documentation and shall not unreasonably withhold payment.

10.04 *Suspension of or Reduction in Payment*

- A. Buyer may suspend or reduce the amount of progress payments, even though recommended for payment by Engineer, under the following circumstances:
1. Buyer has reasonable grounds to conclude that Seller will not furnish the Goods or the Special Services in accordance with the Contract Documents, and
 2. Buyer has requested in writing assurances from Seller that the Goods and Special Services will be delivered or furnished in accordance with the Contract Documents, and Seller has failed to provide adequate assurances within ten days of Buyer's written request.
- B. If Buyer refuses to make payment of the full amount recommended by Engineer, Buyer will provide Seller and Engineer immediate written notice stating the reason for such action and promptly pay Seller any amount remaining after deduction of the amount withheld. Buyer shall promptly pay Seller the amount withheld when Seller corrects the reason for such action to Buyer's satisfaction.

10.05 *Final Application for Payment*

- A. After Seller has corrected all non-conformities to the reasonable satisfaction of Buyer and Engineer, furnished all Special Services, and delivered all documents required by the Contract Documents, Engineer will issue to Buyer and Seller a notice of acceptance. Seller may then make application for final payment following the procedure for progress payments. The final Application for Payment will be accompanied by all documentation called for in the Contract Documents, a list of all unsettled Claims, and such other data and information as Buyer or Engineer may reasonably require.

10.06 *Final Payment*

- ~~A.~~ If, on the basis of final inspection and the review of the final Application for Payment and accompanying documentation, Engineer is reasonably satisfied that Seller has furnished the Goods and Special Services in accordance with the Contract Documents, and that Seller's has fulfilled all other obligations under the Contract Documents, then Engineer will, within ten days after receipt of the final Application for Payment, recommend in writing final payment subject to the provisions of Paragraph 10.07 and present the Application to Buyer. Otherwise, Engineer will return the Application to Seller, indicating the reasons for refusing to recommend final payment, in which case Seller shall make the necessary corrections and resubmit the Application for payment. If the Application and accompanying documentation are appropriate as to form and substance, Buyer shall, within 30 days after receipt thereof, pay Seller the amount recommended by Engineer, less any sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages to which Buyer is entitled.

Engineer's recommendation for final payment shall not be withheld beyond 90 days after receipt of the equipment as long as all non-conformities brought forth during that time frame have been resolved.

10.07 Waiver of Claims

- A. The making and acceptance of final payment will constitute:
1. a waiver of all Claims by Buyer against Seller, except Claims arising from unsettled liens from non-conformities in the Goods or Special Services appearing after final payment, from Seller's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Seller's continuing obligations under the Contract Documents; and
 2. a waiver of all Claims by Seller against Buyer (other than those previously made in accordance with the requirements herein and listed by Seller as unsettled as required in Paragraph 10.05.A, and not resolved in writing).

ARTICLE 11 – CANCELLATION, SUSPENSION, AND TERMINATION

11.01 Cancellation

- A. Buyer has the right to cancel the Contract, without cause, at any time prior to delivery of the Goods by written notice. Cancellation pursuant to the terms of this paragraph shall not constitute a breach of contract by Buyer. Upon cancellation:
1. Buyer shall pay Seller for the direct costs incurred in producing any Goods that Seller has specially manufactured for the Project, plus a fair and reasonable amount for overhead and profit.
 2. For Goods that are not specially manufactured for the Project, Seller shall be entitled to a restocking charge of 10 percent of the unpaid Contract Price of such Goods.

11.02 Suspension of Performance by Buyer

- A. Buyer has the right to suspend performance of the Contract for up to a maximum of ninety days, without cause, by written notice. Upon suspension under this paragraph, Seller 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 Seller.

11.03 Suspension of Performance by Seller

- A. Subject to the provisions of Paragraph 5.07.B, Seller may suspend the furnishing of the Goods and Special Services only under the following circumstance:
1. Seller has reasonable grounds to conclude that Buyer will not perform its future payment obligations under the Contract; and,

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

11.04 Breach and Termination

A. Buyer's Breach:

1. Buyer shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including but not limited to:
 - a. wrongful rejection or revocation of Buyer's acceptance of the Goods,
 - b. failure to make payments in accordance with the Contract Documents, or
 - c. wrongful repudiation of the Contract.
2. Seller shall have the right to terminate the Contract for cause by declaring a breach should Buyer fail to comply with any material provisions of the Contract. Upon termination, Seller shall be entitled to all remedies provided by Laws and Regulations.
 - a. In the event Seller believes Buyer is in breach of its obligations under the Contract, Seller shall provide Buyer with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Buyer shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Seller may grant in writing) within which to cure or to proceed diligently to cure such alleged breach.

B. Seller's Breach:

1. Seller shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including, but not limited to:
 - a. ~~failure to deliver the Goods or perform the Special Services in accordance with the Contract Documents,~~
 - b. wrongful repudiation of the Contract, or
 - c. ~~delivery or furnishing of non-conforming Goods and Special Services.~~
2. Buyer may terminate Seller's right to perform the Contract for cause by declaring a breach should Seller fail to comply with any material provision of the Contract Documents. Upon termination, Buyer shall be entitled to all remedies provided by Laws and Regulations.

- a. In the event Buyer believes Seller is in breach of its obligations under the Contract, and except as provided in Paragraph 11.04.B.2.b, Buyer shall provide Seller with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Seller shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Buyer may grant in writing) within which to cure or to proceed diligently to cure such alleged breach.
- b. If and to the extent that Seller 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 Contract Documents, Seller is not transferring any intellectual property rights, patent rights, or licenses for the Goods delivered. However, in the event the Seller is manufacturing to Buyer's design, Buyer retains all intellectual property rights in such design.
- B. Seller shall pay all license fees and royalties and assume all costs incident to the use or the furnishing of the Goods, unless specified otherwise by the Contract Documents.

12.02 *Seller's Infringement*

- A. Subject to Paragraph 12.01.A, Seller shall indemnify and hold harmless Buyer, Engineer and their officers, directors, members, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments **actually incurred** (including but not limited to all reasonable 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 Goods as delivered hereunder.
- B. In the event of suit or threat of suit for intellectual property infringement, Buyer will promptly notify Seller of receiving notice thereof.
- C. Seller shall promptly defend the claim or suit, including negotiating a settlement. Seller shall have control over such claim or suit, provided that Seller agrees to bear all expenses and to satisfy any adverse judgment thereof.
 1. If Seller fails to defend such suit or claim after written notice by Buyer, Seller will be bound in any subsequent suit or claim against Seller by Buyer by any factual determination in the prior suit or claim.

2. If Buyer fails to provide Seller the opportunity to defend such suit or claim after written notice by Seller, Buyer shall be barred from any remedy against Seller for such suit or claim.
- D. If a determination is made that Seller has infringed upon intellectual property rights of another, Seller may obtain the necessary licenses for Buyer's benefit, or replace the Goods and provide related design and construction as necessary to avoid the infringement at Seller's own expense.

12.03 Buyer's Infringement

- A. Buyer shall indemnify and hold harmless Seller, and its officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments **actually incurred** (including but not limited to all reasonable 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 caused by Seller's compliance with Buyer's design of the Goods or Buyer's use of the Goods in combination with other materials or equipment in any process (unless intent of such use was known to Seller and Seller had reason to know such infringement would result).
- B. In the event of suit or threat of suit for intellectual property infringement, Seller must after receiving notice thereof promptly notify Buyer.
- C. Upon written notice from Seller, Buyer shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Buyer shall have control over such claim or suit, provided that Buyer agrees to bear all expenses and to satisfy any adverse judgment thereof.
 1. If Buyer fails to defend such suit or claim after written notice by Seller, Buyer will be bound in any subsequent suit or claim against Buyer by Seller by any factual determination in the prior suit or claim.
 2. If Seller fails to provide Buyer the opportunity to defend such suit or claim after written notice by Buyer, Seller shall be barred from any remedy against Buyer for such suit or claim.

12.04 Reuse of Documents

- A. Neither Seller nor any other person furnishing any of the Goods and Special Services under a direct or indirect contract with Seller 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 Buyer and Engineer and specific written verification or adaptation by Engineer. This prohibition

will survive termination or completion of the Contract. Nothing herein shall preclude Seller from retaining copies of the Contract Documents for record purposes.

12.05 Electronic Data

- A. Unless otherwise stated in the Supplementary Conditions, copies of data furnished by Buyer or Engineer to Seller, or by Seller to Buyer or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. The transferring party will correct any errors detected within the 60-day acceptance period.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 13 – DISPUTE RESOLUTION

13.01 Dispute Resolution Method

- A. Either Buyer or Seller may initiate the mediation of any Claim decided in writing by Engineer under Paragraph 9.06.B or 9.06.C before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the Engineer's decision from becoming final and binding.
- B. Buyer and Seller shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the mediation process does not result in resolution of the Claim, then Engineer's written decision under Paragraph 9.06.B or a denial pursuant to Paragraph 9.06.C shall become final and binding 30 days after termination of the mediation unless, within that time period, Buyer or Seller:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or
2. agrees with the other party to submit the Claim to another dispute resolution process, or
3. if no dispute resolution process has been provided for in the Supplementary Conditions, delivers to the other party written notice of the intent to submit the Claim to a court of competent jurisdiction, and within 60 days of the termination of the mediation institutes such formal proceeding.

ARTICLE 14 – MISCELLANEOUS

14.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if: 1) 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 2) 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.
- B. In the case of any conflict between the express terms of this Contract and the Uniform Commercial Code, as adopted in the state whose law governs, it is the intent of the parties that the express terms of this Contract shall apply.

14.03 *Computation of Time*

- A. When any period of time is referred to in the Contract Documents 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 Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents 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 Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Goods and Special Services and termination or completion of the Agreement.

14.06 Entire Agreement

- A. Buyer and Seller agree that this Agreement is the complete and final agreement between them, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may not be altered, modified, or amended except in writing signed by an authorized representative of both parties.

15. Limitation of Liability

A. The total aggregate liability of Seller to Buyer for any reason and for all claims of any kind, whether based on breach of contract, breach of warranty, tort (including negligence), indemnity, strict liability or otherwise, arising out of or in connection with the performance or non-performance of this Agreement, shall not exceed the total amount paid by Buyer to Seller under this Agreement.

- B. To the fullest extent permitted by law, neither party shall be liable to the other for any consequential, indirect, or special damages they incur resulting from the performance and/or non-performance of this Contract.

C. The Parties intend that any liability subject to indemnification or contribution pursuant to this Agreement shall be net of any insurance proceeds, indemnification payments, contribution payments or reimbursements actually received by, or paid to, Subcontractor, Subcontractor's surety, Contractor, Owner and/or other indemnified party with respect to such liabilities or any of the circumstances giving rise thereto.

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SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions for Procurement Contracts, EJCDC P-700 (2010 Edition), and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

SC-4.01 Change Paragraph A:

- A. Payment bond is not required.

SC-4.02 Add the following new paragraphs immediately after Paragraph 4.02.E:

- F. Seller shall purchase and maintain such liability and other insurance as is appropriate for the furnishing of Goods and Special Services and as will provide protection from claims set forth below which may arise out of or result from Seller's furnishing of the Goods or Special Services and Seller's other obligations under the Contract Documents, whether the furnishing of Goods and Special Services or other obligations are to be performed by Seller, any subcontractor or supplier, or by anyone directly or indirectly employed by any of them to furnish the Goods and Special Services, or by anyone for whose acts any of them may be liable:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 - 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Seller's employees;
 - 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Seller's employees;
 - 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Seller, or (ii) by any other person for any other reason;

5. claims for damages, other than to the Goods, because of injury to or destruction of tangible property wherever located, ~~including loss of use resulting therefrom~~; and
 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- G. The policies of insurance so required by this Paragraph 4.02 to be purchased and maintained shall:
1. with respect to insurance required by Paragraphs SC-4.02.F.3 through SC-4.02.F.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) Buyer, Engineer, their consultants, and *[Here list by name, (not Project role) other persons or entities to be included on policy as additional insureds]* all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
 2. include at least the specific coverages and be written for not less than the limits of liability provided below or required by Laws or Regulations, whichever is greater;
 3. include completed operations insurance;
 4. include contractual liability insurance covering Seller's indemnity obligations under Paragraphs 5.09 and 12.02.
 5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to Buyer and Seller and to each other additional insured identified in these Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Seller pursuant to Paragraph SC-4.02.I will so provide);
 6. remain in effect at least until final payment and at all times thereafter when Seller may be correcting, removing, or replacing non-conforming Goods in accordance with Paragraph 8.03;

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and Seller shall furnish Buyer and each other additional insured identified in these Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Buyer and any such additional insured of continuation of such insurance at final payment and one year thereafter); and
 8. with respect to any delegation of professional design services to Seller pursuant to Paragraph 5.10 of the General Conditions, include professional liability coverage by endorsement or otherwise.
- H. The limits of liability for the insurance required by Paragraph SC-4.02.F shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
1. Workers' Compensation, and related coverages under Paragraphs SC-4.02.F.1 and F.2:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoreman's): Statutory
 - c. Employer's Liability: \$1,500,000.00
 2. Seller's General Liability under Paragraphs SC-4.02.F.3 through F.6 which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Seller:
 - a. General Aggregate \$1,500,000.00
 - b. Products - Completed
 - 1) Operations Aggregate \$1,500,000.00
 - c. Personal and Advertising
 - 1) Injury \$1,500,000.00
 - 2) Each Occurrence (Bodily Injury and Property Damage) \$1,500,000.00
 - d. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.

- e. Excess or Umbrella Liability
 - 1) General Aggregate \$5,000,000.00
 - 2) Each Occurrence \$5,000,000.00

- 3. Automobile Liability under Paragraph SC-4.02.F.6:
 - a. Bodily Injury:
 - 1) Each person \$15,000.00
 - 2) Each Accident \$1,500,000.00

 - b. Property Damage:
 - 1) Each Accident \$1,500,000.00
 - 2) Combined Single Limit of \$1,500,000.00

- 4. Professional Liability
(if professional services have been
delegated to Seller pursuant
to Paragraph 5.10): \$1,500,000.00

- I. Seller shall deliver to Buyer, with copies to each additional insured identified in these Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Buyer or any other additional insured) which Seller is required to purchase and maintain.

- J. If Buyer has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained on the basis of non-conformance with the Contract Documents, Buyer shall notify Seller in writing within 10 days after receipt of the certificates or other evidence required by Paragraph SC-4.02.E. Seller shall provide such additional information in respect to insurance as Buyer shall reasonably request.

SC-5.05 Add the following new paragraph immediately after Paragraph 5.05A:

- B. Owner is exempt from payment of sales and local options taxes of the State of Illinois and of cities and counties thereof on all materials to be incorporated into the Work.

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.E:

- F. Seller shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples, or other items requiring approval and Seller shall reimburse Buyer for Engineer's charges for such time.

- G. In the event that Seller requests a change of a previously approved item, Seller shall reimburse Buyer for Engineer's charges for its review time unless the need for such change is beyond the control of Seller.

Other Provisions

1.01 Prevailing Wage Requirements

- A. This project is subject to the requirements of the "Wages of Employees on Public works (Prevailing Wage) Act."

1.02 Liquidated Damages

- A. It is hereby fully understood and agreed that time is of the essence in the performance of this contract. For each and every calendar day that elapses after the Contract Completion Date and before the date on which the work covered by such Contract is actually completed, the Contractor shall pay to the Owner as liquidated damages, and not as a penalty, the sum of Seven hundred fifty dollars (\$750.00). The total amount so payable by the Contractor as liquidated damages, either may be deducted from any moneys due or payable to the Contractor by the owner or so much thereof as is not so deducted shall be chargeable to and will be payable promptly by such Contractor and his Surety, or either of them, to compensate, at least in part, the Owner for (1) the administration of the work covered by such contract and any other contract or contracts beyond the Contract Completion Date, including the additional expense to the Owner for supervision, inspection, and superintendence; (2) expenditures resulting from the inability of the Owner (and the general public) to use the improvement being constructed from and after the Contract Completion Date until the actual date of completion; (3) other miscellaneous obligations and expenditures incurred by the Owner directly as a result of the failure to complete the Work covered by such Owner directly as a result of the failure to complete the Work covered by such contract on or before the Contract Completion Date; but, said liquidated damages shall not include the cost of litigation that may result from action taken by the Owner against the Contract.

Avail Switchgear Systems Cancellation Policy

An order or a contract may be cancelled by the purchaser only upon written notice and upon payment to the Company of reasonable and proper cancellation charges. The expenses to be covered by these charges would include any unrecoverable cost incurred by Avail. In addition, a one-time charge will be made to compensate for lost profits, disruptions in scheduling, planned production and other indirect costs. It is recognized that it is impossible to determine exactly these indirect costs. As such, it is agreed that the one-time charge is acceptable and proper. Total cancellation charges will be calculated using the following cancellation schedule:

Cancellation Schedule:

\$1,000 - Order received and entered into system, work not started
10% - Upon release for Engineering
15% - Mechanical drawings submitted for review
25% - Electrical drawings submitted for review
65% - Approval of Bill of Material and Release to Purchase
100% - Release for manufacturing

The percent values listed above represent a percentage of the total contract value.

Cancellation costs will be due and payable within thirty days (30) of submittal of a proper invoice for such costs. Any amounts not paid within thirty days will be subject to late charges of one percent (1%) per month for each fraction of a month that payment is received late at Avail.

Avail Switchgear Systems Escalation Policy

Prices in this proposal have been determined without contingency for material price escalation. Avail continually partners with suppliers to keep costs down; however, volatile markets occasionally result in drastic increases to our operating costs due to the strains they place on the supply chain. This proposal assumes that Avail will have a right to equitably adjust the proposal pricing when it is significantly impacted by material price escalation.

To provide a simple mechanism to determining the impact of escalation to the proposal price, Avail will use the following Producer Price Index from the U.S. Bureau of Labor Statistics:

Electrical Equipment Manufacturing [PCU3353133531], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PCU3353133531>

In the event of an index increase greater than three percent (3%) occurring between the time a proposal is submitted to the month prior to shipping, an adjustment may be applied.

Switchgear Systems

7911 OLD US Hwy 54
Fulton MO, 65251

Ph: (573)642-6811
Fax: (573)642-6844



PRODUCTION TEST REPORT

REF: IEEE C37.20.2-2015 AND AVAIL SWITCHGEAR SYSTEMS STANDARD PROCEDURES

CUSTOMER:	JOB:
CUSTOMER P.O. #:	DATE:
PROJECT ENGINEER:	INSPECTOR:

	TEST		RETEST		COMMENTS
	Initial		Initial	N A	
1 REVIEW ENGINEERING SPEC. SHEET					
2 CHECK BOM & PRINT REVISION LEVELS					
3 CHECK BOM AGAINST INSTALLED MATERIAL					
MATERIAL					
4 LIST SPARE ITEMS					4 [] SEE SEPARATE SHEET
5 CHECK CRITICAL DIMENSIONS TO PRINT					
6 GENERAL APPEARANCE					
7 DHV SIGNS - ETC.					
8 CUSTOMER STENCILING					
9 STENCILING PHASE NO'S.					
10 PAINT					10 [] Color Dry Mil Thickness
11 NAMEPLATES					Mils_____
12 PRINT/FUSE POCKET					
13 BUS ROUTING AND SUPPORT SPACING					
14 BUS PHASING					
15 POTENTIAL & CONTROL XFORMER VOLTAGE					
& HIGH SIDE CONNECTIONS					
16 CONTROL BREAKER SIZES					
17 CONTROL WIRING INSULATION					
IEEE C37.20.2-2015; 6.3.4.2					
18 FUSE SIZES (HV & LV)					
19 ILLUMINATION LIGHTS					
20 HEATER VOLTAGE and placement					
21 MECHANICAL/KEY INTERLOCKS					
IEEE C37.20.2-2015; 6.3.2					
22 MECHANICAL OPERATION-BREAKER					
BREAKER ELEMENT, SHUTTERS, ETC.					
IEEE C37.20.2-2015; 6.3.2					
23 SWITCH OPERATION					
IEEE C37.20.2-2015; 6.3.2					
AND IEEE C37.20.2-2015; 6.3.4					
24 METER & RELAY OPERATION					
IEEE C37.20.2-2015; 6.3.4					
25 FIBER OPTICS TESTED					
26 TEST SOFTWARE					
VERIFIED					
27 LUGS AND TERMINATIONS					
28 DIELECTRIC TEST					28
IEEE C37.20.2-2015; 6.3.1					
29 PHOTOGRAPHS					
30 RECORD HV BREAKER SERIAL #'S					30
31 CHECK GROUNDS					

ABS Quality Evaluations

Certificate Of Conformance

This is to certify that the Quality Management System of:

Avail Infrastructure Solutions

**7911 Old U.S. Highway 54
Fulton, MO 65251
U.S.A.**

has been assessed by ABS Quality Evaluations, Inc. and found to be in conformance with the requirements set forth by:

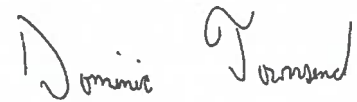
ISO 9001:2015

The Quality Management System is applicable to:

DESIGN AND MANUFACTURE OF ELECTRICAL SWITCHGEAR

This certificate may be found on the ABS QE Website (www.abs-qe.com). For certificates issued in the People's Republic of China information may also be verified on the CNCA website (www.cnca.gov.cn).

Certificate No: 30642
Certification Date: 28 July 2009
Effective Date: 19 April 2023
Expiration Date: 25 July 2024
Revision Date: 19 April 2023



Dominic Townsend, President



Validity of this certificate is based on the successful completion of the periodic surveillance audits of the management system defined by the above scope and is contingent upon prompt, written notification to ABS Quality Evaluations, Inc. of significant changes to the management system or components thereof.

ABS Quality Evaluations, Inc. 1701 City Plaza Drive, Spring, TX 77389, U.S.A.

Validity of this certificate may be confirmed at www.abs-qe.com/cert_validation.

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Medium Voltage Switchgear

PowerAisle II is built for strength and safety

AVAIL[™]
Switchgear Systems



Reliable, durable and completely customizable

Metal-clad substations afford utilities many advantages over open-air substation designs, including a smaller footprint and generally more protection and security. No matter if the application is part of a large substation or a microgrid, Avail Switchgear Systems can provide metal-clad PowerAisle II® switchgear that gets the job done. Every PowerAisle II switchgear is custom-designed, fully assembled and tested in our factory. Our metal-clad switchgear is available for indoor or outdoor applications and an excellent choice for safe, reliable performance.

Rugged and enduring construction

Avail's Power Aisle II switchgear was designed with durability in mind for the utility, commercial, and industrial markets. The double-walled construction between compartments ensures the flexibility to remove and replace a vertical section, as well as maintain structural integrity for the life of the product. With a uniform coating providing maximum chemical, corrosion and heat resistance, our fluidized epoxy-coated bus is designed for longevity. Our paint process utilizes an epoxy primer and polyurethane top coat, applied in an electrostatic process to provide maximum protection against corrosion. From our outdoor enclosure to the last interior component, Power Aisle II is designed for long product life, no matter the application.

Safety is our priority

Avail PowerAisle II switchgear has earned a reputation for delivering superior performance without sacrificing safety. Among the arc mitigation features available on PowerAisle II are:

- Remote racking of circuit breakers, PT drawers and CPT fuse drawers
- Remote mounting/isolation of relays and controls
- Use of quick trip (3 cycle) circuit breakers
- Installation of arc mitigating relays with light and current sensors



Our Field Services Team provides unmatched service and experience



The installation of our customized wiring sets the industry standard for quality and efficiency

Standard Features

Avail PowerAisle II switchgear offers a range of superior features all designed to fit your specific requirements. The range of benefits include:

- **Ready to go** – Completely wired and tested at the factory prior to shipment.
- **Ratings** – 5 - 38kV designs for all medium voltage applications.
- **Flexibility** – Custom-engineered design can integrate any manufacturer's circuit breaker, accommodates a wide range of relay & communication systems, and allows for seamless relay panel integration
- **Connectivity** – Our designs incorporate Ethernet, SCADA, RF or other communications methods to keep utility personnel in control of their substations.
- **Localized construction** – All designs meet seismic and wind load requirements for each unique destination by zip code.
- **Fully expandable** – Removable end walls, double-doors, and transoms above doors are all available to allow for future growth
- **Smart Grid Compatible** – When applicable, installation and design meets IEC 61850 standards.
- **Security** – Outdoor metal-clad switchgear substations are fully enclosed, offering protection to equipment and utility personnel against the elements. Access doors are robust and locked for protection against intrusion, while non-discrete exteriors discourage potential assaults on infrastructure assets.
- **Maintenance Friendly** – Externally mounted galvanized steel ventilation covers allow replacement of filters without opening doors of HV cable compartments for added protection against arc-flash. Fully welded roof and wall seams eliminate the potential for leaks, rodents, and other contaminants.
- **Customized for delivery** – Shipping configurations to meet customer need – minimum shipping splits, or one-piece shipments to eliminate the challenge of on-site assembly.
- **Tested** – Compliance with IEEE, ANSI and NEC standards. Each outdoor substation is fully assembled and tested inside our factory before being prepared for shipment. Customers are always welcome for inspection visits at our facility.
 - Basic impulse level testing
 - Partial discharge testing on switchgear up to 38kV class
 - Continuous current testing

Fully certified Arc-Resistant Metal-Clad Switchgear designs available as well.



availinfra.com/switchgear-systems

7911 Old US Highway 54
Fulton, MO 65251
Phone: (573) 642-6811

6100 Romona Blvd.
Houston, TX 77086
Phone: (281) 506-3600

3110 Progress Drive
Oshkosh, WI 54901
Phone: (920) 232-8888

Metal Enclosed Products

Design. Build. Deliver.
Efficient and effective
integration.



Integrated manufacturing capability for both standard and custom solutions

Avail Switchgear Systems coordinates a turnkey manufacturing process, communicating and ensuring accurate and timely design/engineering, component selection, fabrication, testing and installation.

Design

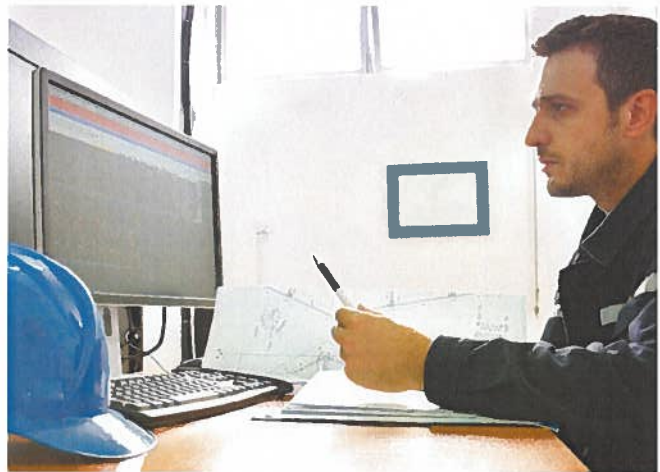
Avail's team of electrical-mechanical designers and engineers bring engineering depth, industry expertise, and broad in-house capabilities. Whether you are planning for a new facility, upgrading an existing one, or retrofitting your current power transmission, distribution or quality system, We will work with you to find a value-oriented solution.

Build

Our commitment to building better products begins with high-quality materials and continues through the integrated manufacturing process. We fabricate, weld, paint, assemble, test and re-test, all in our manufacturing facility. This keeps the entire process flexible—allowing you to choose the components you want and allowing us to manufacture off-the-shelf and custom power solutions to meet your specifications and deadlines.

Deliver

The value of our integrated manufacturing process and sophisticated Quality Control System becomes most apparent at installation. Avail's products are designed and built with installation in mind. Our innovative designs lead to reduced shipping splits and shorter assembly times. Meticulous testing programs provide reduced installation time and reduced expense on-site.



Substation products

Metal Clad Switchgear

- All welded construction
- 5–38 kV
- 1200 to 3000 amp
- Custom design
- Stainless steel main bus shroud
- Base undercoating for added protection
- Heavy duty structural channel base
- Indoor or outdoor construction, aisle options available



Standard Metal Clad Switchgear (1-H & 2-H)			
Rated Maximum Voltage (kV)	BIL (kV)	Max. Continuous Current (A)	Short-Circuit Rating (kA)
5	60	1200	25
		2000	31.5, 40
		3000/4000A FC*	50 & 63kA
15	95	1200	25
		2000	31.5, 40
		3000/4000A FC*	50 & 63kA
27	125	1200	25 & 40
		2000	
		2750	
38	150	1200	25 & 40
		2000	
		3000 FC*	

* FC denotes forced cooling.

Metal Enclosed Switchgear

- All welded construction
- 5–38 kV
- Up to 1200 amp loadbreak
- Up to 4000 amp non-loadbreak
- Custom design
- Base undercoating for added protection
- Heavy duty structural channel base
- Indoor or outdoor construction, aisle options available



Metal Enclosed & Hybrid Switchgear			
Rated Maximum Voltage (kV)	BIL (kV)	Max. Continuous Current* (A)	Short-Circuit Rating** (kA)
5	60	1200 Loadbreak	25kA & 40kA
		4000A Non-Loadbreak	
15	95	1200 Loadbreak	25kA & 40kA
		4000A Non-Loadbreak	
25	125	1200 Loadbreak	25kA & 40kA
		2000A Non-Loadbreak	
35	150	600 Loadbreak	25kA & 40kA
		1200A Non-Loadbreak	

* Nominal switch ratings. Integrated switchgear unit may be limited by bus ratings.

** Nominal switch ratings. Integrated switchgear unit may be limited by fuse ratings.

A commitment to quality from beginning to end

We manufacture to our customer's needs. Our business model is built around customization and flexibility through a fully integrated manufacturing process for the utility, renewable, commercial and industrial markets. Our meticulous Quality Control System ensures Avail equipment is installation-ready upon delivery. Our commitment to quality translates into long-term value for you.

Manufacturing efficient and effective solutions

Our 50,000 square-foot office and manufacturing facility in Oshkosh, WI was custom-built to maintain diversity of products and flexibility. It was designed specifically to accommodate Avail's fully-integrated manufacturing process. Our location provides fast, cost-effective access to the interstate highway system, rail systems, and international airports.

Capabilities

- Welding: 8 bays all welders AWS Certified
- Overhead crane operations
- Metals offered: mild steel, galvanized steel, aluminum, stainless steel (3 grades)
- Laser cutting capabilities
- Turret punch capabilities
- Large capacity overhead doors
- Shearing capabilities
- Forming capabilities
- Gang drilling, drill presses
- Full paint capability to include:
 - C57.12.28 Standard
 - C57.12.29 Coastal



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