TO:	APPROVED BY
Engineering	
Purchasing	
Credit	
Legal	
Insurance	
Traffic	
Comptroller	
Operating Vice President	

RETURN TO PURCHASING DEPARTMENT

PLAINTIFF'S EXHIBIT

ASA-1719

AS&R "Lump Sums" Construction or Repairs
Contract Form PD-20
2/73

ORDER NO. _____

EP586

CONTRACT FOR

Installation of Electrical Distribution Improvements
(Insert name of job)

at

AMERICAN SMELTING AND REFINING COMPANY's El Paso Plant

at El Paso, Texas

THIS AGREEMENT, made the 5th day of February, 1974, by and between The Gardner-Zemke Company, whose address is 1001 Eastside Rd., El Paso, Texas 79915 (hereinafter called the "Contractor") and AMERICAN SMELTING AND REFINING COMPANY, a corporation of the State of New Jersey, whose address is 120 Broadway, New York, N.Y. 10005 and P. O. Box 1111, El Paso, Texas 79999 (hereinafter called
(Insert address of plant or unit)
the "Owner").

REQN EP8/74 ORDER 144-0496

W I T N E S S E T H:

The Contractor and the Owner, for the consideration hereinafter named, agree as follows:

Article 1. Scope of the Work

The Contractor shall furnish all plans, shop drawings, field engineering, labor, materials, transportation, tools, equipment and other facilities, except such items as are hereinafter listed as being furnished or furnished and installed by the Owner, required for Installation of Electrical Distribution Improvements at the
(Insert name of job)
El Paso plant of the Owner at El Paso, Texas,
(Insert town and State)
all in accordance with the requirements and provisions of the attached "General Provisions of the Contract" and the drawings and specifications listed below and those drawings and specifications which may be supplied by the Owner or prepared by the Contractor at the Owner's direction subsequent to the execution hereof and approved by the Owner, all of which are incorporated herein by reference, made a

part hereof and, together with this Agreement, hereinafter referred to collectively as the Contract:

(List Specifications and Drawings)

Specifications for Electrical Construction for El Paso Plant
dated 12-11-73
Specification CE-1-COND 2-23-72
Specification CE-1-EWI 2-18-72
Specification CE-1-UDC 2-18-72

Drawings as per Attachment No. 1

Article 2. Time of Completion

(a) The work to be performed under this Contract shall be commenced February 15, 1974 and shall be completed by October 31, 1974, with an extension of time for completion equal to any time lost due to causes which were beyond the control of the Contractor and which were not the result of his fault or negligence. Like extension of time for completion shall also be allowed for any delays in the progress of the work caused by strikes and other labor disputes, act or neglect of the Owner or of his employees or by other Contractors employed by the Owner, act of Government, delay in the furnishing of plans and necessary information by the Owner, or by any other cause which in the opinion of the Owner entitles the Contractor to an extension of time, The Contractor shall notify the Owner in writing within five days of any occurrence which in the Contractor's opinion entitles him to an extension of time for completion.

(b) Failure to complete the work within the time stated in this Article, including any extension allowed pursuant hereto, shall entitle the Owner to deduct from the moneys due to the Contractor as liquidated damages an amount equal to $ No for each calendar day of delay in the completion of the work.

(c) If the Contractor completes the entire work covered by this Contract earlier than the date determined in accordance with Paragraph (a), the Owner shall pay the Contractor an additional amount equal to $ No for each calendar day by which the time of completion so determined has been reduced.

Article 3. The Contract Price

The Owner shall pay the Contractor for the performance of this Contract, subject to any additions and deductions herein provided for the sum of One Hundred Forty-Nine Thousand Four Hundred Fifty-Eight Dollars ($ 149,458), lawful money of the United States of America, at the time and in the manner hereinafter provided.

Article 4. Progress Payments

As soon as practicable after the first day of each calendar month the Contractor shall present to the Owner an invoice equal to the percentage of the total amount of the Contract which has been completed from the start of the job up to the end of the preceding month plus the cost of materials suitably stored at the site thereof, together with such supporting evidence as may be required by the Owner. Subject to verification of such invoice by the Owner, the Owner as soon as practicable after receipt thereof shall pay the Contractor Ninety percent (90 %) of the amount thereof, less the aggregate of previous payments; and upon completion of the entire work, a sum sufficient to increase the total payments to Ninety percent (90 %) of the contract price. In the event at any time prior payments by the Owner equal such percentage of the contract price, no further payments shall be made until final payment is due.

Article 5. Acceptance and Final Payment

(a) Upon receipt of written notice from the Contractor that the work is ready for final inspection and acceptance, the Owner shall promptly make such inspection, and if and when it finds the work acceptable under the Contract and the Contract fully performed it shall promptly issue a final certificate stating that the work provided for in this Contract has been completed. The entire balance shall be paid to the Contractor by the Owner within 30 days after the date of said final certificate.

(b) Before issuance of the final certificate, the Contractor shall submit evidence satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the work has been paid, and that the work is free of all liens and encumbrances. In the case of disputed indebtedness or liens the Contractor may submit, in lieu of evidence of payment, a surety bond satisfactory to the Owner, guaranteeing payment of all such disputed accounts when adjudicated.

Article 6. Insurance Certificate

Prior to commencement of this work the Contractor shall file with the Owner completed certificates of insurance in form of "Insurance Certificate" attached and shall provide insurance coverage in amounts not less than those stated therein.

Article 7. Compliance with Laws and Ordinances

The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations, bearing on the conduct of the work as drawn and specified. If the Contractor performs any work contrary to any such law, ordinance, rule or regulation, he shall bear all costs arising therefrom. In particular, but without limiting the scope of the foregoing, the Contractor shall, and shall cause any Subcontractor to, comply with the terms and provisions of the Occupational Safety and Health Act of 1970 and all applicable rules, regulations, orders and occupational

safety and health standards promulgated under and issued pursuant to such Act in the discharge of its duties and obligations hereunder.

Article 8. Applicable Law.

The Contract shall be construed and enforced in accordance with the laws of the state where the work hereunder is to be performed.

Article 9. Entirety Clause

This Contract constitutes the entire agreement between the parties, and except as may be specifically set forth herein no changes can be made herein except by an agreement in writing duly executed by the parties or their duly authorized agents.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above written.

THE GARDNER-ZEMKE COMPANY
Contractor

By J C Pharr
J. C. PHARR

Titla Vice President

AMERICAN SMELTING AND REFINING COMPANY
Owner

By W. A. Bonn
Director of Purchases

General Provisions of the Contract

I N D E X

Article 1.	Notice	Page 1
Article 2.	Intent of Contract Documents	Page 1
Article 3.	Drawings and Specifications	Page 1
Article 4.	Order of Completion; Schedules	Page 2
Article 5.	Contractor's Understanding	Page 2
Article 6.	Materials, Appliances and Temporary Facilities	Page 3
Article 7.	Employees of Contractor	Page 3
Article 8.	Patents	Page 4
Article 9.	Surveys, Permits and Regulations	Page 4
Article 10.	Protection of the Public and of Work and Property	Page 5
Article 11.	Inspection of Work	Page 5
Article 12.	Supervision and Superintendence	Page 6
Article 13.	Qualification and Performance of Contractor's Employees	Page 6
Article 14.	Changes in the Work	Page 7
Article 15.	Deductions for Uncorrected Work	Page 8
Article 16.	Correction of Work before Final Payment	Page 8
Article 17.	Correction of Work after Final Payment	Page 9
Article 18.	Owner's Right to Terminate Contract	Page 9
Article 19.	Removal of Equipment	Page 10
Article 20.	Use of Completed Portions	Page 10
Article 21.	Payments Withheld	Page 11
Article 22.	Contractor's Liability Insurance	Page 11
Article 23.	Indemnity by Contractor	Page 11
Article 24.	Owner's Responsibility for Certain Casualties	Page 12
Article 25.	Damages to Owner's Property	Page 12
Article 26.	Surety Bonds	Page 12
Article 27.	Liens	Page 12
Article 28.	Assignment	Page 13
Article 29.	Coordination of Work	Page 13
Article 30.	Subcontracts	Page 14
Article 31.	Arbitration	Page 14
Article 32.	Title to the Work	Page 15
Article 33.	Technical Information	Page 15
Article 34.	Cleaning Up	Page 16
Article 35.	Adaptability of Plans and Specifications	Page 16
Article 36.	Engineering Approval	Page 17

Article 1. Notice

Written notice shall be deemed to have been duly served if delivered by hand or sent by registered mail, in each case to the address or addresses of each party set forth on the first page of this Contract or at such other address subsequently designated by either party.

Article 2. Intent of Contract Documents

In case of conflict between plans and specifications, the specifications shall govern. The intention of this Contract is to include all labor and materials, equipment and transportation necessary for the proper execution of the work. Work not specifically shown on the drawings or enumerated herein but that is reasonably necessary for the proper completion of the project shall be provided by the Contractor the same as if shown on the drawings or enumerated herein. Materials or work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

Article 3. Drawings and Specifications

The Owner agrees to furnish without charge to the Contractor, five sets of specifications and prints of all drawings listed in the specifications. Where revised or additional drawings and specifications are prepared as hereinafter provided the Owner will furnish three sets of same to the Contractor.

The Owner agrees to furnish supplemental drawings as may be required to clarify the contract drawings. Supplemental drawings shall not enlarge nor decrease the scope of the work. Where alterations in the contract drawings and specifications affect the extent of the work, the changes shall be governed as provided in Article 14 of these General Provisions.

The Contractor agrees to furnish to the Owner for approval three sets of prints of the following drawings before proceeding with the work covered therein:

A. All of the Contractor's drawings which are made for this job.

B. Any shop drawings, detail sheets or erection diagrams required for any phase of the work.

C. Certified dimension sheets, wiring diagrams and performance curves covering any equipment purchased by the Contractor for the job.

The Contractor shall make any corrections required by the Owner in drawings submitted for his approval. The Owner's approval as to design of such drawings shall not relieve the Contractor of responsibility for errors or discrepancies of any sort.

The Contractor also agrees to furnish to the Owner five sets of operation and installation instructions and parts lists for all equipment furnished by the Contractor, not later than the date the equipment is shipped, including two certified copies of dimension sheets, wiring diagrams and performance curves of same.

As soon as the drawings referred to in subparagraphs A and B above are completed, checked and approved, the Contractor shall furnish three complete final sets of prints to the Owner.

Article 4. Order of Completion; Schedules

The Contractor shall complete any portion or portions of the work in such order of precedence as the Owner shall require, and the times of completion of the various portions or divisions of the work will be determined by the schedules mutally agreed upon by the Owner and the Contractor

Article 5. Contractor's Understanding

The Contractor shall satisfy itself as to the nature and location of the work, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this Contract. The Contractor may examine such logs of test borings and/or records of such other underground or submarine exploration as may be available.

Article 6. Materials, Appliances and Temporary Facilities

The Owner will not supply electricity, water, light, power, steam, compressed air or other utilities required for construction purposes unless specifically so provided in the Contract. Where such items are not supplied by the Owner they shall be furnished by the Contractor, and the Contractor shall, in either case, be required to make the necessary connections, provide approved shut-off and safety devices and furnish and install all temporary lines required to bring them to the point of use.

Unless otherwise specified, all materials incorporated in the permanent work shall be new and both workmanship and materials shall be of the best quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The Contractor shall construct and maintain all necessary temporary facilities for the completion of the work. Upon completion of the work all such facilities shall, unless the Owner shall otherwise direct, be removed from the premises and the site cleared.

Article 7. Employees of Contractor

If for any reason the Contractor's or any Subcontractor's employees or agents acquire a status imposing liability on the Owner for employer's constributions or taxes under the Federal Insurance Contributions Act, the Federal Unemployment tax Act, any State Unemployment Tax Act, or any other Act, the Contractor shall be exclusively liable for, and shall indemnify the Owner against, the same and agrees to comply with all such laws and regulations so as to relieve the Owner from any and all liability therefor and from the responsibility of making reports or keeping records with respect thereto.

The Contractor shall at all times enforce strict discipline and good order among his employees, and shall seek to avoid employing on the work any unfit person or anyone not skilled in the work assigned to him.

Adequate sanitary facilities shall be provided and maintained by the Contractor.

Article 8. Patents

The Contractor shall indemnify and save harmless the Owner against and from any and all claims, losses, costs, damages, expenses, actions or other proceedings, growing out of or resulting from the infringement of any patent by the Contractor or any Subcontractor in the performance of this Contract, except that this provision shall not apply to patented articles or processes specified in drawings or specifications furnished by the Owner.

Article 9. Surveys, Permits and Regulations

If involved in the subject matter of this Contract, the base lines and mean datum will be established by the Owner; the control lines and levels and all general layout work will be the responsibility of the Contractor. All controls established by the Contractor shall be preserved and maintained throughout the life of the Contract.

Unless otherwise specified, the Owner shall furnish all land surveys required. Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor. Permits, licenses and easements for any permanent structures or any permanent changes in existing facilities shall be secured and paid for by the Owner, unless other, wise specified.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the drawings and specifications are at variance therewith, Contractor shall promptly notify the Owner in writing, and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to any such law, ordinance, rule or regulation, and without such notice to the Owner, Contractor shall bear all costs arising therefrom.

Article 10. Protection of the Public and of Work and Property

The Contractor shall provide and maintain all necessary watchmen, barricades, red lights and warning signs and take all necessary precautions for the protection and safety of employees on the work, of all other persons and of adjacent private and public property. The Contractor at all times shall maintain adequate protection of the work from damage and shall protect the Owner's property and all persons thereon from injury, damage or loss by reason of any act or omission of Contractor or any Subcontractor.

In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor is, without special instructions or authorization from the Owner, hereby authorized to act at Contractor's discretion to prevent such threatened loss or injury. Contractor shall also so act if so instructed by the Owner.

Any compensation claimed by the Contractor on account of emergency work of this nature shall be determined by mutual agreement and failing which, by arbitration.

Article 11. Inspection of Work

The Owner and its representatives shall at all times have access to the work and the Contractor shall provide safe and proper facilities for such access and for inspection.

If the specifications, the Owner's instructions, laws, ordinances, or any public authority require any item of material, equipment or work to be specially tested or approved, the Contractor shall give the Owner timely notice in writing of its readiness for inspection, and if the inspection is by another authority than the Owner, of the date fixed for such inspection. Inspections by the Owner shall be promptly made, and where practicable at the source of supply.

If any work should be covered up before examination by Owner without approval or consent of the Owner, it must, if required by the Owner, be uncovered for examination and properly covered again at the Contractor's expense. Even though the Owner has examined a particular item of work, the Owner may order re-examination of such work, and if so ordered, the work must be uncovered by the Contractor. If such work is found to be in accordance with the Contract, the Owner shall pay the cost of re-examination and replacement. If such work is not in accordance with the Contract, the Contractor shall pay such cost.

Article 12. Supervision and Superintendence

The Contractor shall maintain a competent staff at all times to supervise the work.

The Contractor shall keep on the work, during its progress, a competent superintendent and any necessary assistants, all satisfactory to the Owner. Directions by the Owner may be given to the superintendent and shall be binding on the Contractor. Directions shall be confirmed in writing upon the written request of the Contractor.

The Contractor shall use its best judgement and skill in dealing with labor matters, and take all reasonable steps to avoid labor disputes. In the event of any strike or threat of strike, slowdowns, featherbedding, or other like practices, the Contractor shall apprise the Owner of all relevant facts and implications of the particular labor problem involved, and shall consult in good faith with the Owner in an endeavor to reach a mutally satisfactory solution to such labor problem and, so far as reasonably possible, to protect the Owner against delays affecting the work or damage or losses to its other operations.

Article 13. Qualification and Performance of Contractor's Employees

The Contractor shall at all times supply a sufficient number of skilled workmen to diligently pursue the work. All workmanship and materials shall be the best in its class and shall conform to all codes, rules, regulations and ordin-

ances applying thereto. Where required by such codes, rules, regulations and ordinances, all workmen engaged in such work shall present evidence by certificate or otherwise that they are qualified to do the work in conformity with such codes, rules, regulations and ordinances. If any conflict occurs between the above mentioned codes, rules, etc., and the specifications or the drawings, the code requirements shall govern.

Article 14. Changes in the Work

The Owner, without invalidating this Contract, may at any time order extra work or make changes by altering, adding to or deducting from the work. If such extra work or changes involve a change in cost or in the time required for completion, the contract price shall be increased or decreased by the fair value thereof and the time for completion shall be increased or decreased by the reasonable time allocable thereto. The Owner will itemize the changes to be made and upon receipt of written notice of same the Contractor agrees to submit promptly to the Owner, in triplicate, an itemized statement of the extension or reduction in the time for completion of this Contract which the Contractor deems such reasonable time, and his calculation of the adjustment in the contract price, resulting from the changes or extra work. This must be done before work on the changes is begun unless the Owner gives written order to proceed immediately.

In case the parties shall be unable to agree upon the increase or decrease, in the time for completion or in the contract price, resulting from such extra work or changes, the Contractor shall nevertheless proceed with the work, including such extra work or changes, and the dispute shall be settled by arbitration.

No extra work or change shall be made except by written order of the Owner, and no claim for an addition to the contract price or increase in the time for completion shall be valid unless the additional work was so ordered.

If the Contractor, in the course of the work, finds any discrepancy between the plans and the physical conditions encountered or any errors or omissions in plans or in the layout as given by survey points and instructions, the Contractor shall immediately inform the Owner, in writing. After such discovery, no work shall be done by the Contractor involving such discrepancy, error or omission until authorized by the Owner; otherwise it will be done at the Contractor's risk. If the correction of such discrepancies, errors or omissions involves an increase or decrease in costs or time of completion, the contract price or time of completion shall be adjusted accordingly in the manner provided above as in the case of a change in the work.

Article 15. Deduction for Uncorrected Work

If the Owner deems it inexpedient to correct work that has been damaged througt the fault or neglect of the Contractor, or that was not done in accordance with the Contract, an amount to compensate the Owner fully for such damage or non-compliance shall be deducted from the contract price. If the parties cannot agree on the amount of such deduction, it shall be determined by arbitration

Article 16. Correction of Work before Final Payment

At any and all times before final payment, Contractor shall promptly remove from the premises all materials, whether incorporated in the work or not, and take down all portions of the work, condemned by the Owner as failing to meet contract requirements. The Contractor shall promptly replace and re-execute the Contractor's own work in accordance with this Contract and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

If the Contractor does not remove such condemned work and materials within 10 days after written notice, the Owner may remove them and may store the material at the expense of the Contractor. If the Contractor does not pay the expense of such removal within ten days time thereafter, the Owner may,

upon ten days' written notice, sell such materials at auction or at private sale and shall pay to the Contractor the net proceeds thereof, after deducting all the cost and expense that should have been borne by the Contractor. The Contractor waives all rights to claim damages for sale of materials at auction or private sale. Any dispute under this Article shall be determined by arbitration.

Article 17. Correction of Work After Final Payment

Neither the final certificate nor final payment nor any provision in this Contract shall relieve the Contractor of liability for faulty materials or workmanship and the Contractor shall replace such materials and remedy such workmanship and any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within one year from the date of completion. The Owner shall give notice of observed defects with reasonable promptness. Any dispute under this Article shall be determined by arbitration.

Article 18. Owner's Right to Terminate Contract

If the Contractor should be adjudged a bankrupt, or make an assignment for the benefit of creditors, or if a receiver of the Contractor's property should be appointed or if the Contractor files a petition or if a trustee of the Contractor's property should be appointed under the reorganization or readjustment provisions of the Bankruptcy Act, or if the Contractor at any time should refuse or neglect to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payments to Subcontractors or for material or labor, or disregard laws, ordinances or the instructions of the Owner, or otherwise be guilty of a substantial violation of any provision of the contract which he shall have failed to correct promptly after service of written notice thereof by the Owner, then the Owner may, without prejudice to any other right or remedy, terminate the employment of the Contractor for the Contractor's default and take possession of the premises and of all

material, tools and appliances thereon and finish the work by whatever method the Owner may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed all the general damages of the Owner caused by the Contractor's default, including the expense of finishing the work and compensation to the Owner for the Owner's managerial and administrative services, such excess shall be paid to the Contractor. If such damages shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. In the event the Contractor and the Owner are unable to agree upon the amount to be paid or reimbursed the dispute shall be settled by arbitration.

Article 19. Removal of Equipment

In the case of termination of this Contract before completion from any cause whatever, the Contractor shall promptly remove any part or all of Contractor's equipment and supplies from the property of the Owner, failing which the Owner shall have the right to remove such equipment and supplies at the expense and at the risk of the Contractor, without liability of the Owner for any damage to, or loss of the same.

Article 20. Use of Completed Portions

The Owner shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired; but such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with this Contract. If such prior use increases the cost of or delays the work, the Contractor shall be entitled to extra compensation in reimbursement thereof, or extension of time equal to the delay or both, as the parties may agree upon, and failing agreement the dispute shall be determined by arbitration.

Article 21. Payments Withheld

The Owner may withhold all or part of any progress or final payment to the extent necessary to protect the Owner from loss or damage on account of:

(a) Damaged or defective work not remedied.

(b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against the Contractor or Owner.

(c) Failure of the Contractor to make payments properly to Subcontractors or for material or labor.

(d) A reasonable doubt that this Contract can be completed for the balance then unpaid or within the time specified.

(e) Damage to the Owner's property or the work of another Contractor

Article 22. Contractor's Liability Insurance

Unless otherwise specifically provided, the Contractor shall maintain such insurance as will protect Contractor from claims under Workmen's Compensation Acts and from claims for damages for personnal injury, including death, which may arise from operations under this Contract, whether such operations be by the Contractor or any Subcontractor or anyone directly or indirectly employed by either of them.

Article 23. Indemnity by Contractor

The Contractor shall save harmless and indemnify the Owner from and against any expense, loss or damage on account of any claim, demand or suit made by any person whomsoever, including any employee of the Owner, which is in any way caused by or connected with, or grows out of the execution and performance of this Contract by the Contractor or any Subcontractor; provided, however, that the Contractor shall not be required to indemnify the Owner against any loss caused solely by the negligence or willful fault of the Owner or its employees. The Contractor accepts all risk of injury or damage and all responsibility for any claims for damages whatsoever resulting from the use, misuse, or failure of any hoist, rigging, blocking, scaffolding, or other like or unlike equipment used by the Contractor or any Subcontractor, even though such equipment be furnished or loaned to the Contractor or any such Subcontractor by the Owner, and shall indemnify the Owner against all such claims.

Article 24. Owner's Responsibility for Certain Casualties

The Owner shall be responsible for all damage to the work and to material, temporary structures, and equipment (excluding construction equipment not owned by the Owner) at the site of the job, which is caused by fire, windstorm, smoke, hail, aircraft, explosion, vehicles, riot or civil commotion.

Article 25. Damages to Owner's Property

The Contractor shall be responsible, and reimburse the Owner, for any loss or expense to the Owner arising from damage to the work or other property of the Owner caused by the wrongful act or neglect of the Contractor, any Subcontractor or of the employees of the Contractor or any Subcontractor. Where such damage includes damage to the work it shall be repaired at the expense of the Contractor.

Article 26. Surety Bonds

If the Owner has so requested prior to the signing of this Contract, the Contractor shall furnish bond covering the faithful performance of this Contract and the payment of all obligations arising thereunder, in such form as the Owner may prescribe and with such sureties as it may approve. If such bond was required by instructions given previous to the receipt of bids, the premium shall be paid by the Contractor; if subsequent thereto, it shall be paid by the Owner.

Article 27. Liens

Neither the final payment nor any progress payment shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens arising on account of labor, materials, machinery or equipment in respect of which such payment is to be made, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as Contractor has knowledge or information the releases or receipts include all the labor and materials for which a lien could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full,

furnish a bond satisfact. .y to the Owner, to indemnify th. Owner against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

Article 28. Assignment

The Contractor shall not assign nor sublet this Contract in whole or in part, nor shall the Contractor assign any monies due or to become due it hereunder without the prior written consent of the Owner.

Article 29. Coordination of Work

The Contractor shall conduct the work so as to cause a minimum of interference with the Owner's operations. Where interference with the Owner's operations becomes absolutely necessary, permission shall be requested by the Contractor not less than seventy-two (72) hours in advance.

When other Contractors or the Owner's forces are working on the job on the immediate premises, the Contractor agrees to so schedule the Contractor's work as not to make it necessary for the Contractor to cut into or otherwise alter any work that has been completed by such other persons. If the Contractor fails to do so, then the Contractor shall replace or repair the damaged work at Contractor's own expense and in a manner satisfactory to the Owner.

If any part of the Contractor's work depends for proper execution or results upon the work of any other person, the Contractor shall inspect and promptly report to the Owner any defects in such work that render it unsuitable for such proper execution and results. Contractor's failure so to inspect and report shall constitute an acceptance of such other work as fit and proper for the reception of Contractor's work, except as to defects which may develop in such other work after the execution of Contractor's work.

Article 30. Subcontracts

The Contractor shall, as soon as practicable after the execution of this Contract, notify the Owner in writing of the names of any Subcontractors proposed to be employed in any part of the work and shall not employ any such Subcontractor without the prior approval of the Owner in writing and shall terminate the employment of any which the Owner may at any time object to as incompetent or unfit.

The Contractor agrees to require each Subcontractor to execute a contract in writing binding such Subcontractor to the terms of this Contract insofar as applicable to his work, and requiring such Subcontractor, to the extent applicable, to assume toward the Contractor all the obligations and responsibilities that the Contractor assumes toward the Owner, unless specifically noted to the contrary in a written subcontract approved in writing by the Owner.

The Contractor shall be fully responsible to the Owner for the acts and omissions of all Subcontractors and of persons directly or indirectly employed by them. Nothing in this Contract shall create any contractual relationship between any Subcontractor and the Owner.

The word "Subcontractor", as employed herein, shall mean one having a direct contract with the Contractor, including one who furnished material worked to a special design according to the plans or specifications of this work, but excluding one who merely furnished material not so worked.

Article 31. Arbitration

All disputes which are herein stated to be subject to arbitration shall be submitted to and determined by arbitration. Demand for arbitration shall be filed in writing by either party with the other within a reasonable time after cause thereof has arisen and in no case later than the time for final payment. No one shall act as an arbitrator who is in any way financially interested in this Contract or is or has been connected or interested in the business affairs of either the Owner or the Contractor. The award of the arbitrator shall be in

writing and shall be b ding on both parties. Except a and to the extent otherwise provided by the controlling state law: no party may have recourse to legal proceedings (other than to enforce this arbitration Article) unless and until an arbitration award has been made; the award of the arbitrator shall not be open to objection on account of the form of the proceeding or the award; and there shall be one arbitrator who shall be chosen by the American Arbitration Association, whose arbitration rules shall be followed.

Article 32. Title to the Work

Title to all work completed or in the course of construction shall be in the Owner; and title to all machinery, equipment and materials to be incorporated in the work shall be in the Owner as soon as they are delivered on the site of the job.

Article 33. Technical Information

The Term "technical information" as used in this agreement includes but is not limited to technical data, reports, models, drawings, specifications, operating manuals, designs, computations, formulas, apparatus, processes, patentable or unpatentable inventions and other engineering data. You agree to accept ASARCO's decisions as to whether any particular information is technical information or is technical information which has been made or conceived under this agreement.

It is understood that in the course of your performance hereunder you may learn or have access to technical information of ASARCO. You agree that you and your personnel will keep in confidence all such technical information of ASARCO and that you and your personnel will not use or disclose the same without ASARCO's written consent, either during the term of this agreement or at any time thereafter.

You agree to disclose to ASARCO all technical information made or conceived by you or your personnel in performance, or resulting from performance, under this agreement. You agree that all such technical information made or conceived by you or your personnel shall become and remain the free and unrestricted property of ASARCO and that you shall assign or cause the same to be assigned to ASARCO.

You agree that you and your personnel will keep in confidence all such technica information made or conceived by you or your personnel and that you and your personnel will not use or disclose the same without ASARCO's written consent, either during the term of this agreement or at any time thereafter.

You agree, upon the request and at the expense of ASARCO, to make or cause your personnel to make applications for Letfers Patent in such countries as ASARCO may designate on those of the aforesaid assigned inventions which ASARCO believes to be patentable; and to assign all such applications to ASARCO or its order; and to give ASARCO, its attorneys and solicitors all reasonable assistance in preparing such applications, and in prosecuting such applications in the patent office or offices involved and in defending and enforcing any patent that may be issued upon any such application; and to execute all papers that may be reasonably required in the prosecution of such applications or to vest in ASARCO or its assigns said inventions, applications and Letters Patent.

Article 34. Cleaning Up

The Contractor shall at all times keep the premises free from accumulations of waste material or rubbish caused by Contractor's employees or the work, and at the completion of the work Contractor shall remove all Contractor's rubbish from and about the site and all Contractor's tools, scaffolding and surplush materials and shall leave the work "broom-clean" or its equivalent, unless more exactly specified.

Article 35. Adaptability of Plans and Specifications

Except in the case of patented products for which there is no adequate substitute, the Contractor will not, without the prior written approval of the Owner, prepare any drawings or specifications or do any engineering or planning for the prospective use or installation of any tool, piece of equipment, or material in the work which is of such a character that such drawings, specifications, engineering or planning could not be used with equal facility in connec-

tion with the product of all or most manufacturers of such tools, equipment or materials, or any substitute therefor.

Article 36. Engineering Approval

The Contractor agrees to order no material or equipment and to do no actual construction, and to permit no work to be done by any Subcontractor or supplier of materials or equipment until the drawings relating thereto, the lists and specifications of materials, the equipment to be used and the supplier have been approved by the Owner. During construction, the Contractor shall make no substitutions of material without the prior written approval of the Owner.

AMERICAN SMELTING AND REFINING COMPANY

FORM # INSURANCE-1 Revise /73

INSURANCE-CERTIFICATE

AMERICAN SMELTING AND REFINING COMPANY REQUIREMENTS FOR CONTRACTORS AND SUBCONTRACTORS.

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE DESCRIBED BELOW HAVE BEEN ISSUED TO THE GARDNER-ZEMKE COMPANY

THESE POLICIES ARE NOW IN FORCE, COVERING WORK BY THE ASSURED FOR AMERICAN SMELTING AND REFINING COMPANY ON CONTRACT FOR INSTALLATION OF ELECTRICAL DISTRIBUTION IMPROVEMENTS AT EL PASO SMELTING WORKS, EL PASO, TEXAS

IF THESE POLICIES ARE CANCELLED OR CHANGED IN ANY WAY THAT WILL AFFECT THIS CERTIFICATE, TEN DAYS' PRIOR WRITTEN NOTICE WILL BE GIVEN BY THIS COMPANY TO AMERICAN SMELTING AND REFINING COMPANY, ATTN. Mr. W.R. Kelly PLANT MANAGER.

KIND OF INSURANCE	DESCRIPTION OF POLICY			REQUIRED MINIMUM
	NUMBER	EXPIRES	LIMITS OF LIABILITY	
CONTRACTOR'S PUBLIC LIABILITY (COMPREHENSIVE INCLUDING CONTRACTUAL)*				
BODILY-INJURY				
PROPERTY-DAMAGE				
CONTRACTOR'S PROTECTIVE LIABILITY				
BODILY-INJURY				
PROPERTY-DAMAGE				
AUTOMOBILE				
BODILY-INJURY				
PROPERTY-DAMAGE				
WORKMEN'S COMPENSATION AND EMPLOYER'S LIABILITY				

DATE

*The Contractor shall save harmless and indemnify the Owner from and against any expense, loss or damage on account of any claim, demand or suit made by any person whomsoever, including any employee of the Owner, which is in any way caused by or connected with, or grows out of the execution and performance of this contract by the Contractor or any Subcontractor; provided, however, that the Contractor shall not be required to indemnify the Owner against any loss caused solely by negligence or willful fault of the Owner or its employees. The Contractor accepts all risk of injury or damage and all responsibility for any claims for damages whatsoever resulting from the use, misuse, or failure of any hoist, rigging, blocking, scaffolding, or other like or unlike equipment used by the Contractor or any Subcontractor, even though such equipment be furnished or loaned to the Contractor or any such Subcontractor by the Owner, and shall indemnify the Owner against all such claims.

EP-8

F. O. WITTWER

American Smelting & Refining Co.
El Paso Smelting Works
P.O. Box 1111
El Paso, Texas 79999

As Arranged

Quotations, Specifications, Contracts and Insurance Forms Attached.

This Requisition is Issued to Record Agreement Entered Into With Gardner-Zemke Company, 1001 Eastside Road, El Paso, Texas to Cover Installation of Electrical Distribution Improvements As Per Specifications.

EP 586

February 8, 1974
Const. EP-586 - NY-2902

CENTRAL ENGINEERING DEPT.
DESIGN SECTION

Salt Lake City, Utah
February 8, 1974

EP 586

Mr. W. R. Nasmyth
El Paso Plant

EA-18-EP, N.Y. 2902, PLANT 586
EL PASO PLANT - ELECTRICAL POWER
DISTRIBUTION SYSTEM
FILE 6.2, DRAWING TRANSMITTAL

Under separate cover we are sending you one (1) sepia and six (6) prints of the following revised drawings:

EP-21085-111-A, Rev. 2

EP-21095-111-S, Rev. 2

We have removed "hold" in the area of the Westinghouse 5 KV switchgear.

A. O. MARSH, JR.

FLB:pr
cc: E.H. Haug
W.R. Kelly

LONE STAR ELECTRIC COMPANY / ELECTRICAL CONTRACTORS

EP 586

February 4, 1974

American Smelting & Refining Co.
P.O. Box 1111
El Paso, Texas 79999

Attention: Mr. Naismyth

Re: Power Distribution System
No. 6 Substation Addition

Gentlemen:

We have been unable to bid on the above reference job. At this time we find ourselves with a rather heavy work schedule and just enough manpower to fulfill the job committments that were started at the time we received your plans and new work that had been previously negotiated and is now scheduled to start.

Due to these circumstances we are returning your plans and corresponding work papers. We would like to take this opportunity to thank you for your consideration in allowing us to bid on this work and to apologize for any inconvenience this may have caused.

We hope to be able to be of service to you in the near future.

Regretfully yours,

LONE STAR ELECTRIC COMPANY

Richard A. Najera

Richard A. Najera
President

RAN:cg

6993 INDUSTRIAL AVENUE • EL PASO, TEXAS 79915 • 915 / 778-4441

EP586

To: PURCHASING DEP'T.
NEW YORK OFFICE

EQUIPMENT

BID TABULATION
Form # PD 8-B Revised 9'60

EQUIPMENT - ELECTRICAL DISTRIBUTION IMPROVEMENTS

DATE JANUARY 31, 1974
APPRO. # EP 586 NY 2902
REQN. #

PREPARATION - SEE INSTRUCTION SHEET & PURCHASE MANUAL SECTIONS B-2 & C-2.

Name of Bidder	CALLAGHAN		GARDNER-		H&M			
Manufacturer	ELECTRIC Co		ZEMKE Co		ELECTRIC Co			
Model Number		RATING		RATING		RATING		RATING
Spec. Evaluation	Bidder #		Bidder #		Bidder #		Bidder #	
58611 #4 SUB	41018.22		19195.00		22110.00			
58612 #4 FEEDER	6438.63		7840.00		9960.00			
58613 1500 LCSS	1646.51		3305.00		3130.00			
58614 1000 LCSS	1646.51		2760.00		2250.00			
58615 MCC s	2011.77		3980.00		2780.00			
58616 5KV FD	1288.35		1220.00		1440.00			
58617 #8 FEEDER	4735.24		6960.00		8350.00			
58618 440V WIRING	64701.57		57220.00		63790.00			
58619 100HP MOTORS	2818.71		1245.00		1410.00			
58621 PH 4.16KV	2226.12		1420.00		1580.00			
58622 #6 FEEDER	30639.36		36340.00		42200.00			
58623 5KV FD	1288.22		2135.00		1505.00			
58624 2000 XFMR	1520.59		2850.00		3135.00			
58625 1500 XFMR	1077.20		520.00		1150.00			
TOTAL	163057.00		146990.00		164790.00			
ESCALATION	COST +30%							
START	10 DAYS		10 DAYS		2 WEEKS			
COMPLETION	200 WORK DAYS		240 DAYS		290 DAYS			
EST DATE	11-30-74		10-15-74		11-30-74			
			1245					
58619 ADDITION			2468.00					
			3713					
TOTAL			149458.00					

DEP'T. - ENGINEERING BY D Asmyth

The Gardner-Zemke Company

ELECTRICAL CONTRACTORS

4600 Lincoln Road, N.E.
Albuquerque, New Mexico 87109
Ph. (505) 345-2437

1001 Eastside Road
El Paso, Texas 79915
Ph. (915) 778-9765

Please reply to:

E-018

January 31, 1974

Mr. R. O. Covington
ASARCO - El Paso Smelting Works
P. O. Box 1111
El Paso, Texas 79999

INSTALLATION OF ELECTRICAL
DISTRIBUTION IMPROVEMENTS
EL PASO JOB NO. 586

Dear Sir:

We have carefully examined the drawings and specifications submitted to us by your engineering department covering the proposed fabrication and installation of materials necessary to install electrical distribution improvements. We have also visited the site and acquainted ourselves with those conditions we feel will have an effect upon the conduct of the work. Our lump sum bid is hereby attached in triplicate.

It is our understanding that all existing 2300V motors will be removed by others and the new 480 volt motors will be mounted and mechanically connected by others. Electrical connections only to be made by the contractor.

THE GARDNER-ZEMKE COMPANY
CONTRACTOR

By J C Pharr
J. C. Pharr, P. E., Vice President

JCP:ms

The Gardner-Zemke Company

ELECTRICAL CONTRACTORS

4600 Lincoln Road, N.E.
Albuquerque, New Mexico 87109
Ph. (505) 345-2437

1001 Eastside Road
El Paso, Texas 79915
Ph. (915) 778-9765

Please reply to:

E-018

January 31, 1974

PROPOSAL FOR

INSTALLATION OF ELECTRICAL
DISTRIBUTION IMPROVEMENTS
EL PASO JOB NO. 586

LUMP SUM $146,990.00

We can begin construction within 10 days and complete construction within 240 calendar days after receipt of contract.

THE GARDNER-ZEMKE COMPANY

J. C. Pharr, P. E.
Vice President

JCP:ms

The Gardner-Zemke Company

ELECTRICAL CONTRACTORS

4600 Lincoln Road, N.E.
Albuquerque, New Mexico 87109
Ph. (505) 345-2437

1001 Eastside Road
El Paso, Texas 79915
Ph. (915) 778-9765

Please reply to:

E-018

January 31, 1974

ATTACHMENT NO. 3

Cost Centers

58611 - #4 Substation Foundation and Building	19,195.00
58612 - #4 Substation Feeder	7,840.00
58613 - 1500 KVA Load Center	3,305.00
58614 - 1000 KVA Load Center	2,760.00
58615 - Motor Control Centers	3,980.00
58616 - 5KV Fused Disconnect	1,220.00
58617 - #8 Substation Feeder and Connection	6,960.00
58618 - 480 Volt Wiring	57,220.00
58619 - Installation of 100 HP Motors	1,245.00
58621 - Power House 4.16 KV Switchgear	1,420.00
58622 - #6 Substation Feeder	36,340.00
58623 - 5KV Fused Disconnect	2,135.00
58624 - 2000 KVA Transformer and Foundation	2,850.00
58625 - Reconnect 1500 KVA Transformer	520.00

The Gardner-Zemke Company

ELECTRICAL CONTRACTORS

4600 Lincoln Road, N.E.
Albuquerque, New Mexico 87109
Ph. (505) 345-2437

1001 Eastside Road
El Paso, Texas 79915
Ph. (915) 778-9765

Please reply to:
E-019-7454

February 1, 1974

Mr. R.O. Covington
ASARCO - El Paso Smelting Works
P.O. Box 1111
El Paso, Texas 79999

Re: Installation of Electrical Distribution Improvements
El Paso Job No. 526

Gentlemen:

We are pleased to quote an addition to our bid E-019 of $2,468.00, Two-Thousand-Four-Hundred-Sixty-Eight and No-One-Hundred Dollars for the removal of 6 ea.-2300 volt motors and the setting and alignment of 6 ea.-480 volt motors. We are assuming that the new pump motor bases will be furnished to permit alignment using existing anchor bolts.

If there are any questions please advise.

Very truly yours,

THE GARDNER-ZEMKE COMPANY

J.C. Pharr, P.E.
Vice-President

JCP:ly

Jan 29, 1974

Mr. R. O. Covington
ASARCO--- El Paso Smelting Works
P. O. Box 1111
El Paso, Texas 79999

Installation of Electrical
Distribution Improvements
El Paso Job # 586

Dear Sir:

We have carefully examined the drawings and specifications submitted to us by your Engineering department covering the proposed fabrication and installation of materials necessary to install electrical distribution improvements. We have also visited the site and acquainted ourselves with those conditions we feel will have an effect upon the conduct of the work. Our lump sum bid is hereby attached in triplicate.

Very truly yours,

David L. Hay

H & M Electric Co., Inc.
David L. Hay -- President

DLH:fh

H and M Electric Co.

P. O. Box 26822 • El Paso, Texas 79926

Jan. 31, 1974

BID PROPOSAL

INSTALLATION OF ELECTRICAL DISTRIBUTION
IMPROVEMENTS ---- EL PASO JOB # 586

58611	22,110.00
58612	9,960.00
58613	3,130.00
58614	2,250.00
58615	2,780.00
58616	1,440.00
58617	8,350.00
58618	63,790.00
58619	1,410.00
58621	1,580.00
58622	42,200.00
58623	1,505.00
58624	3,135.00
58625	1,150.00
TOTAL LUMP SUM	164,790.00

H & M Electric Co., Inc.

David L. Hay

David L. Hay- President

Callaghan Electric Co., Inc.

Electrical Contractors

P. O. BOX 1945

Phone 532-5653

118 N. PIEDRAS STREET

EL PASO, TEXAS 79950

January 31, 1974

Mr. R. O. Covington
ASARCO - El Paso Smelting Works
P. O. Box 1111
El Paso, Texas 79999

INSTALLATION OF ELECTRICAL
DISTRIBUTION IMPROVEMENTS
EL PASO JOB NO. 586

Dear Sir:

We have carefully examined the drawings and specifications submitted to us by your engineering department covering the proposed fabrication and installation of materials necessary to install electrical distribution improvements. We have also visited the site and acquainted ourselves with those conditions we feel will have an effect upon the conduct of the work. Our lump sum bid is hereby attached in triplicate.

Callaghan Electric Co. Inc.
CONTRACTOR

By Mike Callaghan

Callaghan Electric Co., Inc.

Electrical Contractors

P. O. BOX 1945

Phone 532-5653

118 N. PIEDRAS STREET

EL PASO, TEXAS 79950

January 31, 1974

Mr. R. O. Covington, Supply Agent
ASARCO
P. O. Box 1111
El Paso, Texas 79999

Dear Sir:

Our proposal is as follows:

#1. Lump sum price $163,075.00
#2. Price breakdown as follows:

58611- #4	Substation Foundation and Building	$41,018.22
58612- #4	Substation Feeder	6,438.63
58613-	1500 KVA Load Center	1,646.51
58614-	1000 KVA Load Center	1,646.51
58615-	Motor Control Centers	2.011.77
58616-	5KV Fused Disconnect	1,288.35
58617- #8	Substation Feeder and Connection	4,735.24
58618	480 Volt Wiring	64,701.57
58619	Installation of 100 HP Motors	2,818.71
58621	Power House 4.16 KV Switchgear	2,226.12
58622- #6	Substation Feeder	30,639.36
58623-	5KV Fused Disconnect	1,288.22
58624-	2000 KVA Transformer and Foundation	1,520.59
58625-	Reconnect 1500 KVA Transformer	1,077.20
		$163,057.00

#3. Estimated first construction time in the field will be 10 days after receipt of contract.

#4. Estimated time for completion from receipt of contract will be 200 working days.

Because of the fluctuating prices of equipment and supplies which we purchase, our final price to you for the work involved will be subject to modification by changes in supplier prices from their original quotation or our original purchase order upon which the price to you was based.

Callaghan Electric Co., Inc.

Electrical Contractors

P. O. BOX 1945

Phone 532-5653

118 N. PIEDRAS STREET

EL PASO, TEXAS 79950

We will document for you any changes in price for equipment and supplies, with a mark up of 30% for overhead and profit.

We trust that this proposal will meet with your approval and if we can be of further service, please call on us.

Thank you,

Mike Callaghan

Mike Callaghan

MC:mh