PLAINTIFF'S EXHIBIT

ASA-1019

DOMESTIC SERVICE

Check the class of service desired; otherwise this message will be sent as a full rate telegram

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| FULL RATE TELEGRAM | |
| DAY LETTER | |
| NIGHT LETTER | |

$ S E

# WESTERN UNION

1206 10-51

W. P. MARSHALL, PRESIDENT

INTERNATIONAL SERVICE

Check the class of service desired; otherwise the message will be sent at the full rate

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| FULL RATE | |
| LETTER TELEGRAM | |
| SHIP RADIOGRAM | |

| NO. WDS.-CL. OF SVC. | PD. OR COLL. | CASH NO. | CHARGE TO THE ACCOUNT OF | TIME FILED |
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| | | | | |

Send the following message, subject to the terms on back hereof, which are hereby agreed to

UWUM5 PD=WUX CD NEW YORK NY JUN 3 1955 958AME=

=BEN ROBERTS=

=EL PASO 71 ANODE BUILDING ROOF CONTRACT FORM HAMILTON

APPROVED=

=D PAINE PURCHASING DEPT=

=838A. ..

I W.E. We still have to wait for approval of appropriation request. BR.

A S & R Contract #1
100 - Revised 12/54



INSTRUCTIONS: Attach and forward with Inquiry Form No. 352. To be completed and returned as contractor's proposal.

CONTRACT FOR

ANODE BUILDING ROOF REPAIR.

at

AMERICAN SMELTING AND REFINING COMPANY'S El Paso Plant

at El Paso

THIS AGREEMENT, made the _____ day of _____, 19__,

by and between E. L. HAMILTON,

whose address is 2813 N. 25th Place, Phoenix Ariz

(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 5, N.Y. and P.O. Box 1111 El Paso Texas.

(hereinafter called the "Owner").

W I T N E S S E T H:

The Contractor and Owner agree as follows:

Article 1. Scope of the Work

The Contractor shall furnish all plans, engineering, labor, tools, equipment and materials, except such items as are hereinafter listed as being furnished or furnished and installed by the Owner, for Repair To Anode Plant Roof. (hereinafter called the "work") at the El Paso. plant of the Owner at El Paso Texas as shown on the drawings and specifications (attached hereto) (entitled Exhibit "A" furnished by Owner and dated May 12, 1955) and shall erect, install, and complete the work in good and workmanlike manner and in compliance with all applicable codes, rules, regulations and ordinances.



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Article 2. Time of completion

The work shall be commenced when material is received. and shall be substantially completed 30 Days.

Article 3. Payment (to be deleted if progress payments are to be made)

The Owner shall pay the Contractor for the performance of this contract, the sum of Two thousand, one Hundred, fifty five dollars, & 26/100 ($ 2155 26/100), lawful money of the United States of America within 30 days after satisfactory completion of the work and submission by the Contractor of evidence (including, if requested, complete releases of all liens arising out of or in connection with the work by all persons, firms or corporations on whose behalf such liens could have been or be (filed) satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the work have been paid and that the work is free of all liens and encumbrances.

Article 3. Payments (to be deleted if progress payments are ~~not~~ to be made)

The Owner shall pay the Contractor for the performance of this contract, the sum of _____ dollars, ($_____), lawful money of the United States, as follows:

On or about the ___day of each calendar month, commencing _____, 19___, the Owner shall pay the Contractor _____ per cent (_____%), based on the contract prices, of the labor and materials incorporated in the work and of materials suitably stored at the site thereof up to the end of the next preceding calendar month, as estimated by the Owner, less the aggregate of previous payments; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to _____ per cent (_____%) of the contract price. Final payment of the remaining (_____%) of the contract price shall be due _____ days after completion of the work provided the contract is then fully performed by the Contractor.

Before each such payment is due, the Contractor shall submit evidence satisfactory to the Owner (including, if requested, partial waivers, or in the case of final payment, complete releases, of all liens arising out of or in connection with the work by all persons, firms or corporation on whose behalf such liens could have been or be filed) that all payrolls, material bills, and other indebtedness (except, in the case of payments other than final payment, indebtedness not then due) connected with the work have been paid and that the work is free of all liens and encumbrances.



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Article 4. Payments Withheld

The Owner may withhold all or part of any payment to the extent necessary to protect the Owner from loss on account of (a) damage to the work or to the person or property of the Owner, another Contractor, or any other person, which is in anyway connected with, grows out of, or has anything to do with the execution and performance of this contract by the Contractor or any subcontractor, (b) a reasonable doubt that the contract can be completed for the balance then unpaid, (c) any failure of the Contractor to make proper payment of indebtedness connected with the work or to perform its obligations under this contract, or (d) claims or probable claims arising out of any of the foregoing.

Article 5. Liens

If any lien remain unsatisfied after payment of the full contract price has been made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and a reasonable attorney's fee. The Contractor shall, at any time requested by the Owner, deliver a bond satisfactory to the Owner indemnifying it against any lien and expenses occassioned thereby.

Article 6. Title to the Work

Title to all work completed or in the course of construction, and all tools, equipment, or materials on account of which any payment has been made, shall be in the Owner.

Article 7. Inspection and Repair

The Contractor shall provide safe and proper facilities at all times for the inspection of the work by the Owner, and shall as soon as practicable after written notice from the Owner, at his own expense remove, take down, replace and repair any materials or portions of the work which the Owner shall deem unsatisfactory or not in conformity with this contract or specifications, and make good all work damaged or destroyed thereby, whether or not there shall be a dispute with respect to any of the foregoing. Any such dispute shall be settled by arbitration in the manner hereinafter provided.

Article 8. Protection of the Work

The Contractor at all times shall maintain adequate protection of the work from damage and shall protect the Owner's property from injury or loss arising in connection with this contract. If any loss or expense to the Owner or damage to the property owned by it results from, or in connection with, the performance of this contract by the Contractor, or any subcontractor, the Contractor shall fully indemnify the Owner. If the work is damaged in any manner whatsoever, it shall be repaired at the expense of the Contractor.



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The Contractor shall fully save harmless and indemnify the Owner 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 connected with, grows out of or has anything to do with the execution and performance of this contract on the part of the Contractor or any subcontractor; and the Contractor agrees that the Owner shall not be liable for any injury, or other loss or damage of any nature, that might be sustained by the Contractor itself or its employees or subcontractors in the execution and performance of this contract, unless such injury, loss or damage is caused solely by willful fault or negligence on the part of the Owner or its employees.

Article 9. Contractor's Liability Insurance

The Contractor shall maintain such insurance as will protect it from claims under workmen's compensation acts and from any other claims for damages for personal 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.

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

Article 10. Compliance with Laws and Ordinances

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations, Federal, State or Municipal, bearing on the conduct of the work and the performance of this contract and shall bear all fines, penalties and losses incurred by reason of the violation of any such law, ordinance, rule or regulation. 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 contributions 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.

Article 11. Patents

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

Article 12. 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 should be appointed on account of



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the Contractor's insolvency, or if a trustee of his 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 fail to prosecute the work with diligence or in any other respect should violate this contract, the Owner, without prejudice to any other remedy it may have, shall be entitled upon three days' written notice to the Contractor, to terminate the employment of the Contractor and take possession of the work and all materials, tools and appliances on the site and finish the work by whatever method the Owner deems 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 the expense of finishing the work, including a reasonable allowance for additional managerial and administrative service, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

Article 13. Correction of Work after Payment

Neither payment nor any provision in the contract shall relieve the Contractor of responsibility for faulty materials or workmanship and the Contractor shall remedy any defects due thereto and pay for any damage to other work resultin 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 subject to arbitration as hereinafter provided.

Article 14. Arbitration

All questions subject to arbitration under this contract shall be submitted to arbitration at the choice of either party to the dispute. Unless otherwise provided by controlling statutes, there shall be one arbitrator who shall be chosen by the American Arbitration Association, whose rules shall be followed.

Article 15. Assignment

The Contractor shall not assign this contract nor sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due it hereunder without the prior written consent of the Owner.

Article 16. Co-ordination of Work

The Contractor shall conduct his work so as to cause a minimum of interference with Company operations. Where such becomes absolutely necessary, permission to do so shall be requested and arrangements made through the Plant Engineer's office not less than seventy-two (72) hours in advance.

Article 17. By the Owner

The Owner agrees to obtain and pay for any building permits required; to carry fire insurance with extended coverage fully covering the Contractor and/or his subcontractors for all material and equipment delivered for the job and for all labor and material brought into the work as their interests may appear; and, to the extent practicable without interference with operations, to furnish the Contractor, free of charge, for its use during construction, electricity, water, steam and compressed air required for construction purposes, at the



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voltage and pressure currently available at the plant, to a point adjacent to or within fifty feet of the site, but the Contractor will 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.

Article 18. Additional Provisions

(Add such additional provisions, if any, as the particular job requires).

Contractor To furnish all materials, including roofing and fasteners Tools, equipment Labor etc. etc, required for replacing roof on West side of Anode casting plant. Material supplied to be Philip Carey corrugated Asbestos Roofing or Equal. Roof contains 33 Squares net (3300 Sq. ft.).

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

_____
Contractor

By _____

AMERICAN SMELTING AND REFINING COMPANY
Owner

By _____
Director of Purchases

# E. L. HAMILTON

*Painting Contractor*

SPRAY SYSTEM AND GENERAL PAINTING
SPECALIZING IN INDUSTRIAL PAINTING AND COATING

TELEPHONE 2-2846 [redacted] STREET
PHOENIX, ARIZONA

May 10-55

American Smelting & Refining Co.

El Paso.
Texas.

Gentlemen.

I submit the Bid of $2155.26 for reroofing the roof over the anode coating Machine. The contractor to furnish all Materials

E. L. Hamilton

33 Squares Net.



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BY.....DATE..... SUBJECT.....SPECIFICATIONS..... SHEET NO.....OF.....

CHKD. BY.....DATE..... FOR ANODE ROOF REPAIRS JOB NO.....

Contractor shall remove old roof in a safe manner and apply corrugated transite sheets with Nelson Stud-Weld fittings of proper size and length. Both side and end laps to be coated between sheets with plastic putty recommended by manufacturer for the purpose. Side and end laps as well as stud spacing to be as shown in mfrs. application instructions.

Contractor to clean gutter at west side of roof thoroughly after job is completed and remove all old roof, fastenings, clips and other debris from job and dispose of same.

J. W. ENGLISH
Plant Engineer
A. S. & R. Co.
May 12, 1955

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