

**PRELOAN ENGINEERING SERVICE
CONTRACT TELEPHONE SYSTEM DESIGN**

AGREEMENT made _____ 20 _____, between _____

_____ (hereinafter called the "Owner"),

and _____

of _____

(hereinafter called the "Engineer").

WHEREAS, the Owner has made a preliminary application to the Administrator of the Rural Utilities Service (hereinafter called the "Administrator") of the United States of America (hereinafter called the "Government") for a loan by the Government to the Owner to finance the rehabilitation and

improvement of approximately _____ miles. of existing telephone lines, buildings, and associated

facilities serving approximately _____ subscribers and the construction of new telephone lines, buildings,

and associated facilities to serve approximately _____ new subscribers (all such improvements, rehabilitation, new construction with its associated facilities being hereinafter called the "Project"), which Project is located within the area proposed to be served by the Owner as indicated on a map furnished to the Administrator by the Owner, as part of the preliminary application, which map is by this reference made a part hereof.

NOT, THEREFORE, in consideration of the mutual undertakings herein contained, the parties hereto agree as follows:

ARTICLE I

General Obligations

Section 1. The Engineer shall render diligently and competently all engineering services which shall be necessary or advisable for the completion of the application for the loan and such other engineering services as may be requested by the Owner in connection therewith. The Engineer shall coordinate all field activities required hereunder in order that such services may be performed as economically and efficiently as possible. The enumeration of specific duties and obligations to be performed by the Engineer hereunder shall not be construed to limit the general undertakings of the Engineer.

ARTICLE II

Mapping

Section 1. The engineer shall prepare the following preliminary base maps and within _____ (_____) days after the date of this Agreement submit three prints of each map to the Owner for approval.

(a) Detail Haps, at a scale of _____ inch(es) equal one mile.

(b) Town Maps, at scale of one inch equals _____ feet.

Section 2. If pursuant to Section 2 of Article 111, The Engineer shall perform the field work required for the Area Coverage Survey, the maps submitted as part of the Report of the Area Coverage Survey shall constitute the maps required to be furnished under this Article 11.

Section 3 All maps submitted pursuant to the preceding section shall conform to the applicable standard mapping specifications prescribed by the Administrator.

Section 4. The Owner shall furnish to the Engineer all maps and data which it may have available for use in the preparation of all maps. The Engineer shall perform all field work which may be necessary or advisable in connection with the preparation of the base maps described in this Article 11.

ARTICLE III

Area Coverage Survey

Section 1. The Engineer shall prepare and, within _____ (_____) days after the date of this Agreement submit to the Owner an Area Coverage Survey of the area proposed to be served by the Project to determine the number of subscribers and kind of service, together with, four copies of a Report of the Area Coverage Survey. The Area Coverage Survey and Report shall be made in the manner and in a form acceptable to the Administrator. The Engineer shall not perform any further services pursuant to this Agreement until the Area Coverage Survey and Report shall have been reviewed and approved by the Owner.

Section 2. The Owner shall furnish to the Engineer information pertaining to system boundaries, areas of interest for exchange area purposes and extended area service (EAS) considerations, locations and grades of service of existing and signed subscribers which will be required for the preparation of the Area Coverage Survey. The Engineer, except as otherwise directed by the Owner, shall perform all field work which may be necessary or required in order to prepare the Area Coverage Survey described in this Article III.

ARTICLE IV

Inventory and Appraisal

Existing or Acquired Properties

Section 1. If requested by the Owner the Engineer shall prepare and submit to the Owner for approval an Inventory and Appraisal of existing properties or properties proposed to be acquired, together with three copies of a Report of Inventory and Appraisal.

Section 2. The Report of Inventory and Appraisal shall include a map showing the location of the properties, a detailed summary of the properties and an inventory of the properties by RUS assembly units, when applicable, showing the quantity, original unit cost and total cost by exchange areas with the average percent condition shown by major plant accounts, and shall be in a form acceptable to the Administrator.

ARTICLE V

Area Coverage Design

Section 1. The Engineer shall prepare, and within _____ (_____) days after having been notified of approval of the Area Coverage Survey by the Owner submit to the Owner for approval _____ (_____) copies of a complete and detailed fundamental design for an area coverage system, hereinafter called "Area Coverage Design", to provide adequate telephone service, within the area to be served by the Owner, to all existing subscribers and the widest practicable number of signed and potential subscribers as indicated by the Area Coverage Survey. The Area Coverage Design shall be in a form acceptable to the Administrator setting forth the design and data for the system to provide for both the number of subscribers and the grades of service forecast in the Area Coverage Survey for the five-year period, and shall include the following:

- (a) Final key maps, central office area detail maps and town maps in accordance with the applicable mapping standards as prescribed by the Administrator, showing the area to be served and details of the system design.
- (b) Comprehensive discussion of the long range development plans considering upgrading and growth beyond the fifth year.
- (c) Cost estimates for the five (5) year period, including if any, the essential costs of additional plant capacity needed beyond the fifth year in items of plant such as buildings, duct systems and pole lines.

(d) Recommendations as to type(s) of aerial, buried, and underground facilities and type(s) of equipment to be used in the Project with special consideration as to construction cost, maintenance cost, and other factors affecting the quality of service and the security of the loan; and

(e) Economic analyses, including all applicable investments and expenses in support of toll and EAS arrangements.

Section 2. Prior to preparing the Area Coverage Design, the Engineer shall make a complete field inspection and investigation of the area and of existing plant, if any, for the purpose of determining the most economical and practicable location of the proposed new telephone lines to serve the signed subscribers and to make service reasonably available to the largest practicable number of potential subscribers in the area who may desire service. In the preparation of the Area Coverage Design, the Engineer shall give full consideration to the retention and rehabilitation of existing plant, including the initial and annual costs and methods of expansion.

The Engineer shall include with the Area Coverage Design engineering studies and economic analyses in support of recommendations to the Owner on retention and rehabilitation of existing plant.

Section 3. In the preparation of the Area Coverage Design, the Engineer and the Owner shall meet with connecting companies as may be necessary to secure commitments on all matters pertaining to toll, EAS, operator assistance and special services required for the proposed System.

ARTICLE VI Commission and Franchise Proceedings

Section 1. When requested by the Owner, the Engineer shall take all appropriate and necessary action, under the direction of the Owner, for the preparation of all exhibits, and supporting data required in connection with any application relating to the Project by the Owner to any regulatory body having jurisdiction or to any public body authorized to grant a franchise. When requested by the Owner, the Engineer shall appear as a witness in connection with such application.

ARTICLE VII Compensation

Section 1. The compensation payable by the Owner to the Engineer for services performed by the Engineer under this Agreement shall be a sum equal to the out-of-pocket expense of the Engineer plus seventy-five percent (75%) thereof, plus subsistence expense if any, paid to employees, plus reasonable transportation costs of employees, plus the cost of prints and telephone and telegraph expenses.

The total compensation under this Agreement is estimated to be, but not limited to, \$ _____. Out-of-pocket expense shall be limited to money paid by the Engineer for direct labor, direct labor taxes and direct labor insurance, except that, in the case of services performed with the prior approval of the Owner by the following named officers, partners or others having ownership interest in the Engineer, the daily rates corresponding to "direct labor" set forth below shall apply:

Section 2. The Engineer shall submit to the Owner on the tenth day of each month a progress report of the work accomplished as of the first of the month by the Engineer under this Agreement and the Engineer shall include in the report a statement of the total compensation payable as computed in accordance with the provisions of Section 1 of this Article VII.

Section 3. The Engineer shall submit to the Owner itemized invoices for payment of compensation in amounts computed in accordance with the provisions of Section 1 of this Article VII, and upon approval by the Owner of

each such invoice, the Owner shall make payment to the Engineer as follows:

- (a) For the preparation of Preliminary Base maps, within ten (10) days after approval by the Owner of the Preliminary Base Maps, at which time the full amount of the approved invoice shall be paid.*
- (b) For the preparation of the Area Coverage Survey and Report, within ten (10) days after approval by the Owner of the Area Coverage Survey and Report, at which time the full amount of the approved invoice shall be paid.*
- (c) For the making of an Inventory and Appraisal of existing or acquired properties, within ten (10) days after approval by the Owner of the report on the Inventory and Appraisal, at which time the full amount of the approved invoice shall be paid.*
- (d) For the preparation of the Area Coverage Design within thirty (30) days after review and approval by the Owner of the Area Coverage Design at which time the full amount of the approved invoice shall be paid.*
- (e) For services rendered in connection with the Owner's application to the regulatory body having jurisdiction or public body for a franchise and for such other engineering services as may be requested by the Owner, within ten (10) days following any month in which services of this nature were rendered, at which time the full amount of the approved invoice shall be paid.*

Section 4. *In the event that this Agreement at any time be terminated pursuant to Section I of Article VIII hereof, the compensation which shall be payable by the Owner to the Engineer shall be computed in accordance with the provisions of Section 1 of this Article VII in respect of the services performed prior to notice of termination. Such compensation shall be paid ten (10) days after the amount due has been determined by the Engineer and the Owner.*

Section 5. *Prior to the time when any payment shall be made to the Engineer pursuant to this Agreement, the Engineer, if requested by the Owner, shall furnish to the Owner, as a condition precedent to such payment, an affidavit to the effect that all salaries or wages earned by the employees of the Engineer in connection with the Project have been fully paid by the Engineer up to and including a date not more than fifteen (15) days prior to the date when such payment shall be made. Before the time when the final payment provided to be made pursuant to this Article VII shall be made to the Engineer by the Owner, the Engineer shall also furnish to the Owner as a condition precedent to such payment an affidavit that all the employees of the Engineer have been paid by him for services rendered by them in connection with the Project and that all other obligations which might become a lien upon the Project have been paid.*

Section 6. *Interest at the rate of six percent (6%) per annum shall be paid by the Owner to the Engineer on all unpaid balances due the Engineer, commencing thirty (30) days after the due date, provided that the delay in payment beyond the due date shall not have been caused by any condition within the control of the Engineer. Such compensation shall be paid ten (10) days after the amount of the interest has been determined by the Engineer and the Owner.*

Section 7. *In the event any payment due under this Article VII shall remain unpaid more than ten (10) days after such payment is due and such delay in payment shall not have been caused by any condition within the control of the Engineer, the Engineer may, after having given twenty (20) days notice in writing to the Owner of his intention so to do, cease performance hereunder until such overdue payment shall have been paid.*

Section 8. *The Owner shall have the right to inspect and audit all payrolls, records and accounts of the Engineer relevant to the work for the purposes of this Article VII and the Engineer shall provide all reasonable facilities necessary for such inspection and audit.*

ARTICLE VIII

Miscellaneous

Section 1. *The Owner may at any time terminate this Agreement by giving notice to the Engineer, in writing, to that effect not less than ten (10) days prior to the effective date of termination specified in the notice. Such notice shall be deemed given if delivered or mailed to the last known address of the Engineer. From and after the*

effective date specified in such notice this Agreement shall be terminated except that the Engineer shall be entitled to receive compensation for services theretofore performed as provided in Section 4 of Article VII.

Section 2. Upon completion of the Project or termination of this Agreement, the Engineer shall be obligated forthwith to deliver to the Owner all maps, tracings, and drawings of the Project and all letters, documents, and other material including, all records pertaining thereto. The term "Completion of the Project" shall mean full performance of all obligations under this Agreement and all amendments and revisions thereof as evidenced by the approval of the Owner for the services performed.

Section 3. The Engineer shall take out and maintain workmen's compensation insurance covering all employees of the Engineer who shall perform any of the obligations of the Engineer hereunder, whether or not such insurance is required by the laws of the State governing the employment of any such employee. If any employee is not subject to the workmen's compensation laws of such State, such insurance shall extend to such employee voluntary coverage to the same extent as though such employee were subject to such laws. The policy of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner.

Section 4. The obligations and duties to be performed by the Engineer under this Agreement shall be performed by persons qualified to perform such duties efficiently. The Engineer, if the Owner shall so direct, shall replace any engineer or other person employed by the Engineer in connection with the Project.

For the information of the Owner, the Engineer shall file with the Owner statements, signed by the Engineer, of the qualifications, including specific experience, of each engineer assigned to the Project and the duties assigned to each.

Section 5. Compensation for services rendered hereunder shall be payable from such funds as may be available to the Owner, irrespective of whether the Administrator shall make a loan for the Project.

Section 6. This Agreement may be simultaneously executed and delivered in two or more counterparts, each of which so executed and delivered shall be deemed to be an original, and all shall constitute but one and the same instrument.

Section 7. The obligations of the Engineer under this Agreement shall not be assigned without the approval in writing of the Owner.

Section 8. The Engineer shall comply with all applicable statutes pertaining to engineering.

(a) The Engineer warrants that he possesses license **number** _____
issued to him by the State of _____ on the _____ day of _____
_____ 20 _____

(b) The Engineer warrants that no license is required in the State where the Project is to be constructed.

**IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed in their respective corporate names by their Presidents and their corporate seals to be hereunto affixed and attested by their Secretaries, all as of the day and year first above written.*

ATTEST:

OWNER

SECRETARY

By _____

ATTEST:

ENGINEER

SECRETARY

By _____

PRESIDENT

• When Engineer is a corporation, this section to be used.

***IN WITNESS WHEREOF, the-Owner has caused this Agreement to be signed in its corporate name by its President and its corporate seal to be hereunto affixed, and attested-by-its Secretary, and the Engineer has hereunto set his hand, all as of the day and year first above written.*

ATTEST:

OWNER

SECRETARY

By

PRESIDENT

ENGINEER

• **When Engineer is an individual or partnership, this section to be used. If a partnership, all partners shall sign.*