

USDA-FmHA
Form FmHA-IL 1942-19

AGREEMENT FOR ENGINEERING SERVICES

This Agreement, made this 16th day of July, 1970, by and between
CLARK-EDGAR RURAL WATER DISTRICT, hereafter
referred to as the OWNER, and FRANCIS ASSOCIATES, PARIS, ILLINOIS
hereinafter referred to as the ENGINEER:

THE OWNER intends to construct a RURAL WATER DISTRIBUTION SYSTEM
WITHIN ALL OR A PART OF THE RURAL WATER DISTRICT
IN CLARK & EDGAR COUNTIES

Counties, State of Illinois, which may be paid for in part with financial assistance from the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture, hereinafter referred to as FmHA, pursuant to the consolidated Farm and Rural Development Act, (7 U.S.C. 1921 et seq.) and for which the ENGINEER agrees to perform the various professional engineering services for the design and construction of said system.

WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A--ENGINEERING SERVICES

The ENGINEER shall furnish engineering services as follows:

1. The ENGINEER will conduct preliminary investigations, prepare preliminary drawings, provide a preliminary itemized list of probable construction costs effective as of the date of the preliminary report, and submit a preliminary engineering report following FmHA instructions and guides.
2. The ENGINEER will furnish 10 copies of the preliminary engineering report, and layout maps to the OWNER.
3. The ENGINEER will attend conferences with the OWNER, representatives of FmHA, or other interested parties as may be reasonably necessary.
4. After the preliminary engineering report has been reviewed and approved by the OWNER and by FmHA and the OWNER directs the ENGINEER to proceed, the ENGINEER will perform the necessary design surveys, accomplish the detailed design of the project, prepare construction drawings, specifications and contract documents, and prepare a final cost estimate based on the final design for the entire system. It is also understood that if subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the ENGINEER will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the OWNER as set out in Section D hereof.
5. The contract documents furnished by the ENGINEER under Section A-4 shall utilize FmHA-endorsed construction contract documents, including FmHA Supplemental General Conditions, Contract Change Orders, and partial payment estimates. All of these documents shall be subject to FmHA approval. Copies of guide contract documents may be obtained from FmHA.
6. Prior to the advertisement for bids, the ENGINEER will provide for each construction contract, not to exceed 10 copies of detailed drawings, specifications, and contract documents for use by the OWNER, appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, specifications, and contract documents shall be included in the basic compensation paid to the ENGINEER.
7. The ENGINEER will furnish additional copies of the drawings, specifications and contract documents as required by prospective bidders, material suppliers, and other interested parties, but may charge them for the reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER five sets of the drawings, specifications and contract documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Original documents, survey notes, tracings, and the like, except those furnished to the ENGINEER by the OWNER, are and shall remain the property of the ENGINEER.

(Section A - continued)

8. The drawings prepared by the ENGINEER under the provisions of Section A-4 above shall be in sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be accomplished by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set out in Section D hereof.
9. The ENGINEER will attend the bid opening and tabulate the bid proposal, make an analysis of the bids, and make recommendations for awarding contracts for construction.
10. The ENGINEER will review, for conformance with the design concept, shop and working drawings required by the construction contract document and indicate on the drawings the action taken. Such action shall be taken with reasonable promptness.
11. The ENGINEER will interpret the intent of the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the contractors. The ENGINEER will not, however, guarantee the performance by any contractor.
12. The ENGINEER will establish baselines for locating the work together with a suitable number of bench marks adjacent to the work as shown in the contract documents.
13. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to ascertain that the contractor is conforming with the design concept.
14. Unless notified by the OWNER in writing that the OWNER will provide for resident inspection, the ENGINEER will provide resident construction inspection. Inspection shall consist of visual inspection of materials, equipment, or construction work for the purpose of ascertaining that the work is in substantial conformance with the contract documents and with the design intent. Such inspection shall not be relied upon by others as acceptance of the work. The ENGINEER's undertaking hereunder shall not relieve the Contractor of Contractor's obligation to perform the work in conformity with the drawings and specifications and in a workmanlike manner; shall not make the ENGINEER an insurer of the Contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner. Attachment II-The Limitations of Authority, Duties and Responsibilities of the Resident Construction Inspector will be attached to this Agreement if applicable.
15. The ENGINEER will cooperate and work closely with FmHA representatives.
16. The ENGINEER will review the contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment.
17. The ENGINEER will prepare necessary contract change orders for approval of the OWNER, FmHA, and others on a timely basis.
18. The ENGINEER will make a final review prior to the issuance of the statement of substantial completion of all construction and submit a written report to the OWNER and FmHA. Prior to submitting the final pay estimate, the ENGINEER shall submit a statement of completion to and obtain the written acceptance of the facility from the OWNER and FmHA.
19. The ENGINEER will provide the OWNER with one set of reproducible record (as-built) drawings, and two sets of prints at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the contractor during construction and reviewed by the resident inspector and from the resident inspector's construction data.
20. If State Statutes require notices and advertisements of final payment, the ENGINEER shall assist in their preparation.
21. The ENGINEER will be available to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of statement of substantial completion of the facility. This service will include instruction of the OWNER in initial project operation and maintenance but will not include supervision of normal operation of the system. Such consultation and advice shall be furnished without additional charge except for travel and subsistence costs. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of the certificate of substantial completion.

SECTION D - ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON PRIOR WRITTEN AUTHORIZATION OF THE OWNER and written approval of FmHA.

1. Site surveys for water treatment plants, sewage treatment works, dams, reservoirs, and other similar special surveys as may be required.
2. Laboratory tests, well tests, borings, specialized geological soils, hydraulic, or other studies recommended by the ENGINEER.
3. Property surveys, detailed description of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
4. Necessary data and filing maps for water rights, water adjudication, and litigation.
5. Redesigns ordered by the OWNER after final plans have been accepted by the OWNER and FmHA, except redesigns to reduce the project cost to within the funds available.
6. Appearances before courts or boards on matters of litigation or hearings related to the project.
7. Preparation of environment impact assessments or environmental impact statements.
8. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-12.
9. The ENGINEER further agrees to provide the operation and maintenance manual for facilities when required for \$ TO BE NEGOTIATED.
10. Making drawings from field measurements of existing facilities when required for planning additions or alterations thereto is estimated to be \$ N.A.
11. Services due to changes in the scope of the Project or its design, including but not limited to, changes in size, complexity, schedule or character of construction.
12. Revising studies or reports which have previously been approved by the OWNER, or when revisions are due to causes beyond the control of the ENGINEER.
13. Preparation of design documents for alternate bids where major changes require additional documents.
14. Preparation of detailed renderings, exhibits or scale models for the Project.
15. Providing special analysis of the OWNER's needs such as owning and operating analysis, plan for operation and maintenance, OWNER's special operating drawings or charts, and any other similar analysis.
16. The preparation of detailed rate schedules over and above the schedule necessary for the Preliminary Engineering Report, additional feasibility studies, appraisals and evaluations, detailed quantity surveys of material and labor, and material audits or inventories by the OWNER.
17. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) defective or incomplete work of the Contractor, and (3) the Contractor's default under Construction Contract due to delinquency or insolvency.
18. Providing design services relating to future facilities, systems and equipment which are not intended to be constructed or operated as a part of the Project.
19. Providing other services not otherwise provided for in this Agreement, including services normally furnished by the OWNER as described in Section F - SPECIAL PROVISIONS - Owner's Responsibilities.

Payment for the services specified in this Section D shall be as agreed in writing between the OWNER and approved by FmHA prior to commencement of the work. Barring unforeseen circumstances, such payment is estimated not to exceed \$ 35,000. The ENGINEER will render to OWNER for such services an itemized bill, separate from any other billing, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER on or before the 10th day of the following period.

As Per D. Massie
& DEF 8/13/92

SECTION E - INTEREST ON UNPAID SUMS

If OWNER fails to make any payment due ENGINEER within 60 days for services and expenses and funds are available for the project then the ENGINEER shall be entitled to interest at the rate of 8 percent per annum from said 60th day, not to exceed an annual rate of 12 percent.

SECTION F - SPECIAL PROVISIONS

1. OWNER'S RESPONSIBILITIES

- a. Provide to the ENGINEER all criteria, design and construction standards and full information as to the OWNER's requirements for the Project.
 - b. Designate a person authorized to act as the OWNER's representative. The OWNER or his representative shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of the ENGINEER's services.
 - c. Furnish laboratory tests, air and water pollution tests, reports and inspections of samples, materials or other items required by law or by governmental authorities having jurisdiction over this Project, or as recommended by the ENGINEER.
 - d. Provide legal, accounting, right-of-way acquisition and insurance counseling services necessary for the Project, legal review of the Construction Contract Documents, and such auditing services as the OWNER may require to account for expenditures of sums paid to the Contractor.
 - e. Furnish above services at the OWNER's expense and in such manner that the ENGINEER may rely upon them in the performance of his services under this Agreement and in accordance with the Project timetable.
 - f. Guarantee full and free access for the ENGINEER to enter upon all property required for the performance of the ENGINEER's services under this Agreement.
 - g. Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project or other event which may substantially affect the ENGINEER's performance of services under this Agreement.
 - h. Protect and preserve all survey stakes and markers placed at the project site prior to the assumption of this responsibility by the Contractor and bear all costs of replacing stakes or markers damaged or removed during said time interval.
2. All original documents, including but not limited to ideas, designs, drawings and specifications, as an instrument of professional service, are to remain the property of the ENGINEER. Reuse of any document without written verification or adaptation by the ENGINEER will be at the OWNER's sole risk and without legal liability and exposure to the ENGINEER.
 3. Delegation of Duties - Neither the OWNER nor the ENGINEER shall delegate his duties under this Agreement without the written consent of the other.
 4. Extent of Agreement - This Agreement represents the entire and integrated Agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the OWNER, the ENGINEER, and approved by FmHA.
 5. Governing Law - Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the principal place of business of the ENGINEER.
 6. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties.
 7. The ENGINEER has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precautions or to means, methods, techniques, sequences, or procedures required by the Contractor to perform his work but not relating to the final or completed structure; omitted services include but are not limited to shoring, scaffolding, underpinning, temporary retention of excavations and any erection methods and temporary bracing.
 8. The ENGINEER intends to render his services under this Agreement in accordance with generally accepted professional practices for the intended use of the Project.

Section F - continued)

9. Since the ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s) methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the ENGINEER cannot and does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost prepared by him. If prior to the bidding or negotiating phase OWNER wishes greater assurance as to project or construction cost he shall employ an independent cost estimator.

10. TERMINATION

- a. Should the OWNER decide to abandon, discontinue, or terminate the Project after the preliminary report or at any later stage of development, the ENGINEER shall receive seven (7) days written notice and be compensated for their services through the effective date in accordance with the appropriate fee schedule provided for in the Agreement, to date of abandonment, discontinuance or termination.
- b. In the event the project is delayed for causes beyond the control of the ENGINEER for a period of six months or more, the ENGINEER shall be paid for his services to the beginning of the delay on the basis of actual cost plus 125% to cover profit, overhead and readiness to serve - "actual cost" being defined as material costs plus actual payrolls, insurance, social security and retirement deductions. Traveling and other out-of-pocket expense will be reimbursed to the ENGINEER at his actual cost.

SECTION G - APPROVAL BY FmHA

This Agreement shall not become effective until approved by FmHA. Such approval shall be evidenced by the signature of a duly authorized representative of FmHA in the space provided at the end of this Agreement. The approval so evidenced by FmHA shall in no way commit FmHA to render financial assistance to the OWNER and is without liability for any payment hereunder, but in the event such assistance is provided, the approval shall signify that the provisions of this Agreement are consistent with the requirements of FmHA.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

(SEAL)

ATTEST *Hazel J. Givens*
 Type Name HAZEL J. GIVENS
 Title SECRETARY

(SEAL)

ATTEST *Teresa M. Christenberry*
 Type Name TERESA M. CHRISTENBERRY
 Title SECRETARY

OWNER:

Thomas Jones
 By CLARK-EDGAR RURAL WATER DISTRICT

Type Name _____
 Title CHAIRMAN
 Date _____

ENGINEER:

By *Dale E. Francis*
 Type Name DALE E. FRANCIS

Title OWNER
 Date July 16, 1990

APPROVED:

FARMERS HOME ADMINISTRATION

By _____
 Type Name _____
 Title _____
 Date _____

ATTACHMENT I

CO

Form F-HA-IL 1942-19

Agreement for Engineering Services

FEE SCHEDULE FOR DESIGN AND CONTRACT ADMINISTRATION ENGINEERING SERVICES

Compensation for Design and Contract Administration engineering services shall be based upon the following percentage of construction fee schedule:

Cost of Construction		Design Fee	
		Per Diam of Cost-Plus Fee	
Less than	\$ 100,000		12.5%
First	100,000		9.5%
Next	120,000		7.8%
Next	200,000		6.7%
Next	300,000		6.0%
Next	750,000		5.4%
Next	1,000,000		4.9%
Next	4,000,000		4.9%
Next	7,000,000		4.75%

[Redacted] the total design fee should

be increased by 3% for each additional contract.

FEE SCHEDULE FOR RESIDENT INSPECTOR AS SET FORTH IN SECTION A-14

Resident inspector services during construction will be charged on the basis of [Redacted] (Payroll Costs) times a factor of 1.75 plus reimbursable expenses.

- (a) Direct Labor Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical personnel, stenographers, typists and clerks; but does not include indirect payroll related costs or fringe benefits.
- (b) Payroll Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical personnel, stenographers, typists and clerks; plus the cost of customary benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto.

ATTACHMENT II

to

Form FmHA-IL 1942-19

Agreement for Engineering Services

THE LIMITATIONS OF AUTHORITY, DUTIES AND RESPONSIBILITIES OF THE RESIDENT CONSTRUCTION INSPECTOR ARE AS FOLLOWS:

1. The Resident Construction Inspector shall act under the direct supervision of the ENGINEER, shall be the ENGINEER's agent in all matters relating to on-site construction review of the Contractor's work, shall communicate only with the ENGINEER and the Contractor (or Contractors), and shall communicate with subcontractors only through the Contractor or his authorized superintendent. The OWNER shall communicate with the Resident Construction Inspector only through the ENGINEER.
2. The Resident Construction Inspector shall review and inspect on-site construction activities of the Contractor relating to portions of the Project designed and specified by the ENGINEER as contained in the Construction Contract Documents.
3. Specifically omitted from the Resident Construction Inspector's duties are any review of the Contractor's safety precautions, or the means, methods, sequences, or procedures required for the Contractor to perform the work but not relating to the final or completed Project. Omitted design or review services include but are not limited to shoring, scaffolding, underpinning, temporary retention of excavations and any erection methods and temporary bracing.
4. The specific duties and responsibilities of the Resident Construction Inspector are enumerated as follows:
 - a. Schedules: Review the progress schedule, schedule of Shop Drawing submissions and schedule of values prepared by Contractor and consult with ENGINEER concerning their acceptability.
 - b. Conferences: Attend preconstruction conferences. Arrange a schedule of progress meetings and other job conferences as required in consultation with ENGINEER and notify those expected to attend in advance. Attend meetings and maintain and circulate copies of minutes thereof.
 - c. Liaison:
 - (1) Serve as ENGINEER's liaison with Contractor, working principally through Contractor's superintendent and assist him in understanding the intent of the Contract Documents. Assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's onsite operations.
 - (2) As requested by ENGINEER, assist in obtaining from OWNER additional details or information, when required at the job site for proper erection of the work.
 - d. Shop Drawings and Samples:
 - (1) Receive and record date of receipt of Shop Drawings and samples, receive samples which are furnished at the site by Contractor, and notify ENGINEER of their availability for examination.
 - (2) Advise ENGINEER and Contractor or its superintendent immediately of the commencement of any work requiring a Shop Drawing or sample submission if the submission has not been approved by ENGINEER.
 - e. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - (1) Conduct on-site inspection of the work in progress to assist ENGINEER in determining if the work is proceeding in accordance with the Contract Documents and that completed work will conform to the Contract Documents.
 - (2) Report to ENGINEER whenever he believes that any work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or does not meet the requirements of any inspections, test or approval required to be made or has been damaged prior to final payment; and advise ENGINEER when he believes work should be corrected or rejected or should be uncovered for inspection, or requires special testing, inspection or approval.

ATTACHMENT II (continued)

- (3) Verify that tests, equipment and systems start-ups, and operating and maintenance instructions are conducted as required by the Contract Documents and in presence of the required personnel, and that Contractor maintains adequate records thereof; observe, record and report to ENGINEER appropriate details relative to the test procedures and start-ups.
 - (4) Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections and report to ENGINEER.
- f. Interpretation of Contract Documents: Transmit to Contractor ENGINEER's clarifications and interpretations of the Contract Documents.
- g. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report them with recommendations to ENGINEER.
- h. Records:
- (1) Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - (2) Keep a diary or log book, recording hours on the job site, weather conditions, data relative to questions of extras or deductions, list of visiting officials and representatives of manufacturers, fabricators, suppliers and distributors, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures. Send copies to ENGINEER.
 - (3) Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.
- i. Reports:
- (1) Furnish ENGINEER periodic reports as required of progress of the work and Contractor's compliance with the approved progress schedule and schedule of Shop Drawing submissions.
 - (2) Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the work.
 - (3) Report immediately to ENGINEER upon the occurrence of any accident.
- j. Payment Requisitions: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward them with recommendations to ENGINEER, noting particularly their relation to the schedule of values, work completed and materials and equipment delivered at the site but not incorporated in the work.
- k. Certificates, Maintenance and Operating Manuals: During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed; and deliver this material to ENGINEER for his review and forwarding to OWNER prior to final acceptance of the work.
- l. Completion:
- (1) Before ENGINEER issues a Statement of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
 - (2) Conduct final review in the company of ENGINEER, OWNER and Contractor and prepare a final list of items to be completed or corrected.
 - (3) Verify that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.