

## SPONSORS GUIDE TO PROPERTY APPRAISAL And The Determination of Just Compensation

### INTRODUCTION

The Corps of Engineers (USACE) normally determines specific property interests and estates to be acquired for a public project or program during project planning. As a part of this process, public records and other information about property in the area will have been researched and reviewed.

### PROPERTY APPRAISAL

Affected property owners must be notified as soon as possible of (1) your agency's interest in acquiring the property or an interest in it; (2) your obligation to secure any necessary appraisals; and (3) any other useful information which may assist the property owner and ensure project success in a timely manner.

When a government agency begins to acquire private property for public use, the first personal contact with the property owner should be no later than during the appraisal process. As part of selecting appraisers, each candidate must be advised that each property owner must be contacted and invited to accompany the appraiser during an inspection. As established by statute, the inspection allows the owner an opportunity to point out any unusual or hidden features of the property that could be overlooked. During the inspection the appraiser is also expected to determine if any of the following conditions exist: There are other owners. There are tenants on the property. There are items of real or personal property that belong to someone else. The appraiser's inspection will note its physical characteristics. He or she will review sales of other properties similar to the subject property in order to compare the characteristics of those sales with the characteristics of the subject. The appraiser will analyze all elements that affect value.

By law, the appraiser must disregard any current or potential influence of the future public project on area values. However, the appraiser must consider normal depreciation and physical deterioration that has taken place. The appraisal report will describe the property ascribing a value estimate based on the condition of the property on the day that the appraiser last saw it, as compared with other similar properties that have sold

The appraiser is responsible for determining the fair market value of the property. Your agency will use the appraiser's approved report to establish just compensation to be offered for the property.

### JUST COMPENSATION

Once the appraisal has been completed, the Appraisal Branch, USACE, will review the reports) to ensure that all applicable appraisal standards and requirements have been met. The review appraiser for USACE will approve an acceptable appraisal that includes an estimated value that represents the just compensation to be offered for the real estate. No amount less than the fair market value established by the approved appraisal can be offered to the property owner. If your agency is only acquiring a portion or partial interest in the property, any allowable damages or benefits (if applicable) to the remaining property will be reflected in this amount. A written offer of just compensation must be provided to the owner by your agency.

### *BUILDINGS, STRUCTURES AND IMPROVEMENTS*

Sometimes buildings, structures or other improvements considered to be real property are located on a property to be acquired. If this is the case, you must offer to acquire at least an equal interest in such buildings, structures or other improvements if they must be removed or it is decided that the improvements will be adversely affected by the public program or project.

### *TENANT OWNED BUILDINGS, STRUCTURES AND IMPROVEMENTS*

Sometimes, tenants lease real property and build or add improvements for their use. Frequently, they have the right or obligation to remove the improvements at the expiration of the lease term. If, under State law, the improvements are considered to be real property, your agency must make an offer to the tenants to acquire these improvements.

In order to be paid for these improvements, the tenant-owner must assign, transfer, and release all right, title, and interest in the improvements. Also, the owner of the real property on which the improvements are located must disclaim all interest in the improvements. Just compensation for an improvement will be the amount that the improvement contributes to the fair market value of the whole property, or its value for removal from the property (salvage value), whichever is greater.

A tenant-owner can reject payment for the tenant-owned improvements and obtain payment for his or her property interests in accordance with any other applicable laws. You cannot pay for tenant-owned improvements if such payment would result in the duplication of any other compensation otherwise authorized by law. If improvements are considered personal property under State law, the tenant-owner may be reimbursed for moving them under relocation assistance provisions. You must personally contact the tenant-owners of improvements to explain the procedures to be followed. Any payments must be in accordance with Federal rules and any applicable State laws.

### *EXCEPTIONS TO APPRAISAL REQUIREMENTS*

An appraisal is not required under the following circumstances:

- If the property owner elects to donate the property and release the project from the obligation of performing an appraisal and waves any rights as provided under Public Law 91-646.
- If the project determines that the acquisition is uncomplicated, and a review of available data supports a low market value as established by USACE. However, the property owner must be fully advised that an appraisal has not been performed and that said owner may request that one be prepared.

## **MODEL**

### **REAL ESTATE APPRAISAL SERVICES CONTRACT**

APPRAISAL SCOPE of WORK

AND

### **FEE SCHEDULE**

The referenced documents are intended to provide you, the Non-Federal Sponsor, with the means to successfully appraise the lands necessary to construct a civil works project. These model formats comply with Federal requirements. The magnitude and scope of each paragraph and section contained in these models may not apply to each value problem encountered. In particular, differing project features may alter the requirements set forth under SCOPE: A. & B. and SUPPLIED MATERIALS. Applications of law within your jurisdiction may also differ. As such, alterations and modifications may be in order. Please do not hesitate to contact the Appraisal Branch of the Rock Island District Real Estate Division for guidance and/or assistance. Please remember that all project contracts are subject to review and concurrence by the Corps of Engineers before implementation. It is important that the final documents are sufficient to meet our regulations.

Contract No.:

Date:

CLOSED-END CONTRACT FOR

REAL ESTATE APPRAISAL SERVICES

CONTRACTOR & ADDRESS:

CONTRACT FOR: Appraisal of real property located in \_\_\_\_\_ as identified in  
SCHEDULE..A..

PROJECT: YOUR PROJECT

PAYMENT: To be made by (Your Organization)

THIS CONTRACT entered into this - day of by the \_\_\_\_\_, (hereinafter called  
the \_\_\_\_\_), represented by \_\_\_\_\_ executing this contract, and

(hereinafter called the contractor).

Witnesseth that:

WHEREAS, \_\_\_\_\_, in its capacity as Non-Federal Sponsor, has entered into a Project Cooperation Agreement (PCA) with the United States of America (Government), under which a civil works project will be constructed by the U.S. Army Corps of Engineers (USACE) in cooperation with the \_\_\_\_\_ and;

WHEREAS, pursuant to the PCA it is the responsibility of the \_\_\_\_\_ to obtain appraisals for all interests (estates) in real property, and it is the responsibility of USACE to ensure through a review process that each appraisal meets the standards of performance set out in SCHEDULE "A"; and;

WHEREAS, the preparation and delivery of the hereinafter described appraisal report is authorized by law; and

WHEREAS, the contractor is well-qualified, equipped and experienced and is in a position to prepare and furnish to the \_\_\_\_\_ (appraisal reports) covering the real property hereinafter described,

NOW, THEREFORE, the parties do mutually agree as follows:

ARTICLE 1. Ordering, Preparation and Delivery of Appraisal Reports.

The contractor shall, upon receipt of a duly executed work order, prepare, furnish and deliver to the \_\_\_\_\_ an Appraisal Report under Standards Rule 2-2 as defined by Uniform Standards of Professional Appraisal Practice as amended covering certain real property described in SCHEDULE "A" attached to and made a part of this contract.

In addition, the appraisal and report shall address and comply with Uniform Standards For Federal Land Acquisitions, as amended.

**ARTICLE 2. Contents and Number of Appraisal Reports.**

(a) The appraisal report shall be furnished in quadruplicate in accordance with the guidelines set out in SCHEDULES "A" & "B" of this contract.

(b) Ownership - One appraisal report will be furnished for a contiguous area of land owned by the same entity. Land may be deemed contiguous even though portions thereof are separated by roads, railroad rights-of-way, streams, etc. If there has been a severance of the surface and the subsurface of the land, determination of what constitutes a tract will be based on ownership of the surface.

**ARTICLE 3. Modifications of Delivered Appraisal Reports**

Contractor shall modify or supplement any appraisal report where additional appraisal data is discovered that was known or should have been known to be in existence prior to the delivery of the report; where application of principles of law relating to real estate appraisals require the modification or supplementing of such appraisal report; the requirements of either Uniform Appraisal Standards For Federal Land Acquisitions or Uniform Standards of Professional Appraisal Practice as amended have not been met. This service shall be rendered without additional cost to the

**ARTICLE 4. Delivery**

Time being of the essence, the contractor shall mail or deliver to the \_\_\_\_\_ the completed appraisal report and all copies within the Devivery; page 5 of **SCHEDULE "A" and 6. DELIVERY of SCHEDULE "B"**.

**ARTICLE 5. Testimony in Judicial Proceedings**

Upon request of the \_\_\_\_\_, the contractor agrees to furnish testimony as to the value of any and all property on which appraisal reports) are furnished in any judicial proceedings involving a determination of the value of the aforementioned property.

**ARTICLE 6. Pa.**

In consideration of the performance of the undertakings under this contract, the contractor shall be paid:

(a) The sum set out in SCHEDULE "B" for the appraisal reports) shall constitute full payment to the contractor and shall include costs of all supplies, material, equipment and transportation incidental to preparing and delivering the reports. The contract price shall be due and payable for an acceptable appraisal report upon delivery and acceptance of such report by USACE accompanied by a properly certified invoice

(b) The sum set out in SCHEDULE "B" for any modification of an appraisal report, or supplemental appraisal, requested subsequent to delivery and acceptance of the completed report by the and

USACE. However, any modification requested prior to delivery and acceptance of completed reports pursuant to **ARTICLE 3**, will be at no cost to the

(c) The contractor agrees to attend conferences preliminary to trial, as requested, and to testify, should these additional services be required. The compensation for each court appearance which requires testimony shall be 000.00 an hour. The compensation for each conference preliminary to trial shall be an hour based on one half man day per conference.

#### **ARTICLE 7. Appraisal Reports to be Confidential**

All information contained in the appraisal report to be made hereunder and all parts thereof are to be treated as strictly confidential. The contractor shall take all necessary steps to insure that no member of staff or organization divulge any information concerning such appraisal reports to any person other than a duly authorized representative of the

#### **ARTICLE 8. Disputes**

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement through negotiation and/or other alternative dispute resolution shall be decided by the . The decision of the shall be final and conclusive unless, within one (1) year from the date of receipt of such decision of the, the Contractor shall bring action in a court of competent jurisdiction.

#### **ARTICLE 9. Changes**

The may set any time, by a written order, make any changes within the general scope of this contract which may either increase, decrease or terminate the work and services hereunder. If such change causes an increase or decrease in the cost of or the time required for performance of this contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. In the event that the contract is terminated, the Contractor shall be due payment only for those complete appraisals received by the prior to its written notification and found to be acceptable by USACE. Any claim by the Contractor for adjustment under this Article must be asserted within 30 days from the date of receipt by the Contractor of the notification of change. Provided, however, that the if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled *Disputes*. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

#### **ARTICLE 10. Officials Not to Benefit**

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. The provisions of Section of the are incorporated herein by reference.

**ARTICLE 11. Covenant Against Contingent Fees**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the shall have the right to annul this contract without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**ARTICLE 12. Equal Opportunity**

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor will not discriminate against any physical or mental handicap employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin or physical or mental handicap. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Equal Opportunity clause.
- (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized by and such other sanctions and remedies that may be lawfully imposed.

### **ARTICLE 13. Delays - Damage**

If the Contractor refuses or fails to perform this contract within the time specified, or any extension thereof,

the      may, by written notice, terminate the right of the Contractor to proceed with the contract or with such part or parts thereof as to which there has been delay, and may hold the Contractor

liable for any damage caused the      by such termination. The right of the Contractor to proceed with the performance of this contract shall not be terminated under this Article if the delay is due

to causes beyond the control and without the fault or negligence of the Contractor, including but not limited to any preference, priority, or allocation order issued by the      or any other act of the Additional requirements concerning *Delivery* are set out in paragraph 6. **DELIVERY of SCHEDULE "B"**.

### **ARTICLE 14. Termination**

(a) The may terminate this contract at any time and for any cause by a notice in writing to the Contractor. Upon receipt of such notice the Contractor shall, unless the notice directs otherwise, immediately discontinue all work and services.

(b) If the contract is terminated for the convenience of the , payment to the Contractor will be made promptly for that proportion of the work and services required under the contract of which the work and services actually performed bear to the total work and services required under the contract, less any payments previously made.

(c) If this contract is terminated because of the failure on the part of the Contractor to fulfill his undertakings under this contract, the may take over the work and services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the for any excess cost occasioned to the thereby.

ARTICLE 15. Gratuities

(a) They may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performance of such contract; provided that the existence of the facts upon which the or its duly authorized representative makes such findings shall be an issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor.

(c) The rights and remedies of the provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

ARTICLE 16. Option to Extend the Term of the Contract

This contract is renewable for an additional period, at the option of the , by giving written notice of renewal to the Contractor days before this contract is to expire; provided, that the shall have given preliminary notice of its intention to renew - days before this contract is to expire. (Such preliminary notice will not be deemed to commit the to a - renewal.)

ARTICLE 17. Modification

This contract together with any addendum constitutes the entire agreement between the parties and shall not be altered, modified or amended except in writing signed by both parties.

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

By:

Date:

For (Your Organization

By:

Date:

For the Appraiser

(Acknowledgements as Required)

**SCHEDULE "A"**

**SCOPE OF WORK**

REAL ESTATE APPRAISAL

**YOUR PROJECT**

POLITICAL SUBDIVISION, COUNTY, STATE

DATE

**PURPOSE OF APPRAISAL:**

SCOPE:

A. The appraisal report is to be prepared in compliance with Uniform Appraisal Standards For Federal Land Acquisitions, as amended, (**Exhibit "A"**) and Uniform Standards of Professional Appraisal Practice (USPAP).

B. The report shall include the following value estimates:

1. *Fee Simple* "as is" value estimate of lands, buildings and site improvements that form the subject property.

2. *Temporary Easement (one (1) year)* (**Exhibit "B"**)

3. *Damages*

*(Note: These are examples. Actual project interests (estates) will vary)*

C. The appraisal shall include analyses of Highest and Best Use that provide written reasoning to the extent and detail required to support the opinions of value. All Highest and Best Use Analyses' conclusions must be for an economic use. So called "public interest value" including but not limited to preservation and conservation or any noneconomic highest and best use are not acceptable. Sales to and from public or quasi public agencies are not acceptable as comparables unless the contractor can demonstrate that the transfers were at arms length, free from any threat of condemnation or inducement including but not limited to tax incentives not available to the general public.

D. Uneconomic remnants (so called severance damages) as a result of the project must be valued on a "Before" and "After" basis. If, in the opinion of the contractor, an easement will result in a *permanent damage*, the appraisal will be in the "Before" and "After" format. This methodology will estimate the value of the estate taken as well as any loss to the remainder. A *damage* that is considered *temporary* in nature does *not* require the "Before" and "After" format. *Damages* that are curable due to the passage of time or by other mitigating circumstances (ten years or less for both), may use economic rent (income) as a basis for estimating a short term damage.

E. Hazardous, Toxic, Radioactive Wastes (HTRW)

In the event that the Contractor, through ordinary and usual means available to real estate appraisers, determines that the subject site is impacted or influenced by HTRW, the values shall be

## SCHEDULE "A"

estimated on an "As Remediated" basis. The contractor shall provide to the , through the report, the basis of the determination.

F. In order for the reviewer to understand the basis for all value conclusions, the report shall clearly and fully describe, define and explain the basis for all analyses and conclusions. The report must be so complete, consistent, and comprehensive that a far removed reviewer can clearly understand the methodology used by the appraiser to arrive at the value estimates.

G. Tangible personal property not defined as realty shall not be included in value estimates.

H. "Cost to Cure" estimates, if any, shall not exceed the estimated damages) from any "Before and After" appraisal and report. Any "cost to cure" estimate of damage shall include direct and indirect costs to cure, effects of delay, if applicable, and entrepreneurial profit, if appropriate.

I. The description of subject land and buildings shall include a discussion of deficiencies and insufficiencies which affect value. By example, wetlands, drainageways, etc. normally can not be developed for an economic use and can not be included in density calculations for land use in most jurisdictions.

Therefore, undevelopable land, for any reason, can not be appraised as equivalent with upland areas when estimating value.

J. A permanent easement is an estate and not a fee acquisition of a part taken. Therefore, a value estimate less than fee for a permanent easement is required. The location and extent of a permanent easement may leave a landowner with little remaining utility. The appraiser is to be guided by that understanding applying "D." above as required.

K. Temporary easements of less than two (2) years should not be discounted. The estimated values for an economic return or rent on project land areas are de minimis and need not be further reduced by discounting for this period of time. A temporary easement that exceeds two (2) years shall be discounted in the third (3) year and beyond.

L. Site improvements located within permanent and temporary work easements that have been identified to be demolished and removed shall be appraised "as is." Salvage values must be assigned by the appraiser for these items. Those site improvements scheduled for removal can be sold back to the homeowner for the salvage value with the understanding that the owner will remove the items at their own expense within a time frame in accordance with the construction schedule.

M. Landscaping scheduled for removal within all project work areas should be replaced as a project cost, not as items of compensation. To value landscaping to be removed within project limits for compensation purposes and at the same time replace it at completion of construction would result in a windfall. When dealing with landscaping including trees, the unit rule as adopted by court decisions proffers that different elements of a parcel are not to be separately valued and then added together. A property is to be valued as an entirety, a whole. The various parts of that whole are to be considered only as they contribute to the overall value, avoiding a cumulative appraisal. An analysis of separate elements with a conclusion that they either enhance, diminish and/ or do not affect the value of the whole must be supported by market evidence. For instance, a treed lot should be compared to sales of "treed" lots.

Comparing a "treed" lot to an "open" one may have a market supported adjustment that indicates the contribution to value of the trees to the entire site. However, an adjustment for a tree or trees as separate elements will generally be unacceptable.



## **SCHEDULE "A"**

N. Ownership - Value estimates will be furnished for a contiguous area of land owned by the same person, entity. Land will be deemed contiguous even though portions thereof are separated by roads, railroad rights-of-way, streams, etc, if interests held by the owners(s) are uniform and a reasonable likelihood exists for a near term integrated unitary purpose.

PROPERTY LOCATION:

OWNER OF RECORD/ SUBJECT IDENTIFIERS/ LAND AREA:

PIN No. Land Area

Total:

FORMAT:

Narrative Appraisal Report

In order to meet the requirements as an "Appraisal Report" , it must comply with Standard Rule 2-2 of the Uniform Standards of Professional Appraisal Practice as amended. A Limited and/or Restricted report is not acceptable .

ORIGINALS/ COPIES:  
(Reference: SCOPE: A.)

One original with original signatures and photographs and three copies with original signatures and photographs shall be furnished that comply with the Reporting standards of Uniform Appraisal Standards for Federal Acquisition and Uniform Standards of Professional Appraisal Practice.

SUPPLIED MATERIALS:

Upon issuance of a Notice to Proceed by the , the following materials will be supplied by the

1. Legal description of the subject property, with estates (interests) to be appraised.
2. Current title report that includes easements of record that run with the site
3. Assessor's maps with PIN number annotations
4. Zoning Map
5. Assessor's field cards of subject lots

*(Note: These are examples. Actual material requirements will vary)*

INSPECTIONS:

The appraiser is required to personally speak with the owner(s), their agents or representatives. In the case of this assignment this may require the appraiser of record to meet with owners' attorneys) or others. The appraiser will invite the owner or his designated representative to accompany him/her in the detailed inspection of the property and to give careful, considerate attention to all information and comments offered. The owner may be a prime source of detailed information of importance.

SCHEDULE "A"

DELIVERY:

A. The Contractor agrees to submit the completed appraisal report and all copies to the on or before the 15th calendar day following the effective date of the value estimate established by the Contractor.

B. The appraisal report and all copies shall be submitted within U calendar days after official notice to proceed.

PLACE OF DELIVERY:

APPRAISER LICENSING:

The "responsible appraiser" must be licensed as a Certified General Appraiser. The responsible appraiser shall be identified and a copy of the current State license must be submitted with the bid proposal.

CONFERENCES:

Contractor shall make himself available for conferences, either by phone or at the office of the contractor. Said conferences are without additional cost to the

**MODIFICATIONS OF DELIVERED APPRAISAL REPORT(S):**

Contractor shall modify or supplement any appraisal report where additional data is discovered that was known or should have been known to be in existence prior to the delivery of the report; where application of principles of law relating to real estate appraisals require the modification or supplementing of such appraisal report; the requirements of either Uniform Appraisal Standards For Federal Land Acquisitions or Uniform Standards of Professional Appraisal Practice have not been met. This service shall be rendered without additional cost to the

PAYMENT:

The sum set out in the contract for the appraisal report shall constitute full payment to the contractor and shall include cysts of all supplies, material, equipment and transportation incidental to preparing and delivering the report(s). The contract price shall be due and payable for acceptable appraisal reports in toto upon delivery and acceptance of such reports accompanied by a properly certified invoice.

**APPRAISAL REPORTS TO BE CONFIDENTIAL:**

All information contained in the appraisal report to be made hereunder and all parts thereof are to be treated as strictly confidential. The contractor shall take all necessary steps to ensure that no member of staff or organization divulge any information concerning such appraisal reports to any person other than a duly authorized representative of the



regard to their race, color, religion, sex, national origin or physical or mental handicap. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized by and such other sanctions and remedies that may be lawfully imposed.

#### **ARTICLE 13. Delays - Damage**

If the Contractor refuses or fails to perform this contract within the time specified, or any extension thereof, the may, by written notice, terminate the right of the Contractor to proceed with the contract or with such part or parts thereof as to which there has been delay, and may hold the Contractor liable for any damage caused the by such termination. The right of the Contractor to proceed with the performance of this contract shall not be terminated under this Article if the delay is due to causes beyond the control and without the fault or negligence of the Contractor, including but not limited to any preference, priority, or allocation order issued by the or any other act of the Additional requirements concerning *Delivery* are set out in paragraph 6. **DELIVERY of SCHEDULE "B"**.

#### **ARTICLE 14. Termination**

(a) The may terminate this contract at any time and for any cause by a notice in writing to the Contractor. Upon receipt of such notice the Contractor shall, unless the notice directs otherwise, immediately discontinue all work and services.

(b) If the contract is terminated for the convenience of the , payment to the Contractor will be made promptly for that proportion of the work and services required under the contract of which the work and services actually performed bear to the total work and services required under the contract, less any payments previously made.

(c) If this contract is terminated because of the failure on the part of the Contractor to fulfill his undertakings under this contract, the may take over the work and services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the for any excess cost occasioned to the thereby.

ARTICLE 15. Gratuities

(a) They may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performance of such contract; provided that the existence of the facts upon which the or its duly authorized representative makes such findings shall be an issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor.

(c) The rights and remedies of the provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

ARTICLE 16. Option to Extend the Term of the Contract

This contract is renewable for an additional period, at the option of the , by giving written notice of renewal to the Contractor days before this contract is to expire; provided, that the shall have given preliminary notice of its intention to renew - days before this contract is to expire. (Such preliminary notice will not be deemed to commit the to a - renewal.)

ARTICLE 17. Modification

This contract together with any addendum constitutes the entire agreement between the parties and shall not be altered, modified or amended except in writing signed by both parties.

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

By:

Date:

For (Your Organization

By:

Date:

For the Appraiser

(Acknowledgements as Required)

C-5

## **SCHEDULE "A"**

### **SCOPE OF WORK**

REAL ESTATE APPRAISAL

### **YOUR PROJECT**

POLITICAL SUBDIVISION, COUNTY, STATE

DATE

### **PURPOSE OF APPRAISAL:**

#### **SCOPE:**

A. The appraisal report is to be prepared in compliance with Uniform Appraisal Standards For Federal Land Acquisitions, as amended, (**Exhibit "A"**) and Uniform Standards of Professional Appraisal Practice (USPAP).

B. The report shall include the following value estimates:

1. *Fee Simple* "as is" value estimate of lands, buildings and site improvements that form the subject property.

2. *Temporary Easement (one (1) year)* (**Exhibit "B"**)

3. *Damages*

*(Note: These are examples. Actual project interests (estates) will vary)*

C. The appraisal shall include analyses of Highest and Best Use that provide written reasoning to the extent and detail required to support the opinions of value. All Highest and Best Use Analyses' conclusions must be for an economic use. So called "public interest value" including but not limited to preservation and conservation or any noneconomic highest and best use are not acceptable. Sales to and from public or quasi public agencies are not acceptable as comparables unless the contractor can demonstrate that the transfers were at arms length, free from any threat of condemnation or inducement including but not limited to tax incentives not available to the general public.

D. Uneconomic remnants (so called severance damages) as a result of the project must be valued on a "Before" and "After" basis. If, in the opinion of the contractor, an easement will result in a *permanent damage*, the appraisal will be in the "Before" and "After" format. This methodology will estimate the value of the estate taken as well as any loss to the remainder. A *damage* that is considered *temporary* in nature does *not* require the "Before" and "After" format. *Damages* that are curable due to the passage of time or by other mitigating circumstances (ten years or less for both), may use economic rent (income) as a basis for estimating a short term damage.

E. Hazardous, Toxic, Radioactive Wastes (HTRW)

In the event that the Contractor, through ordinary and usual means available to real estate appraisers, determines that the subject site is impacted or influenced by HTRW, the values shall be estimated on an "As Remediated" basis. The contractor shall provide to the , through the report, the basis of the determination.

F. In order for the reviewer to understand the basis for all value conclusions, the report shall clearly and fully describe, define and explain the basis for all analyses and conclusions. The report must be so complete, consistent, and comprehensive that a far removed reviewer can clearly understand the methodology used by the appraiser to arrive at the value estimates.

G. Tangible personal property not defined as realty shall not be included in value estimates.

H. "Cost to Cure" estimates, if any, shall not exceed the estimated damages) from any "Before and After" appraisal and report. Any "cost to cure" estimate of damage shall include direct and indirect costs to cure, effects of delay, if applicable, and entrepreneurial profit, if appropriate.

I. The description of subject land and buildings shall include a discussion of deficiencies and sufficiencies which affect value. By example, wetlands, drainageways, etc. normally can not be developed for an economic use and can not be included in density calculations for land use in most jurisdictions.

Therefore, undevelopable land, for any reason, can not be appraised as equivalent with upland areas when estimating value.

J. A permanent easement is an estate and not a fee acquisition of a part taken. Therefore, a value estimate less than fee for a permanent easement is required. The location and extent of a permanent easement may leave a landowner with little remaining utility. The appraiser is to be guided by that understanding applying "D." above as required.

K. Temporary easements of less than two (2) years should not be discounted. The estimated values for an economic return or rent on project land areas are de minimis and need not be further reduced by discounting for this period of time. A temporary easement that exceeds two (2) years shall be discounted in the third (3) year and beyond.

L. Site improvements located within permanent and temporary work easements that have been identified to be demolished and removed shall be appraised "as is." Salvage values must be assigned by the appraiser for these items. Those site improvements scheduled for removal can be sold back to the homeowner for the salvage value with the understanding that the owner will remove the items at their own expense within a time frame in accordance with the construction schedule.

M. Landscaping scheduled for removal within all project work areas should be replaced as a project cost, not as items of compensation. To value landscaping to be removed within project limits for compensation purposes and at the same time replace it at completion of construction would result in a windfall. When dealing with landscaping including trees, the unit rule as adopted by court decisions proffers that different elements of a parcel are not to be separately valued and then added together. A property is to be valued as an entirety, a whole. The various parts of that whole are to be considered only as they contribute to the overall value, avoiding a cumulative appraisal. An analysis of separate elements with a conclusion that they either enhance, diminish and/ or do not affect the value of the whole must be supported by market evidence. For instance, a treed lot should be compared to sales of "treed" lots.

Comparing a "treed" lot to an "open" one may have a market supported adjustment that indicates the contribution to value of the trees to the entire site. However, an adjustment for a tree or trees as separate elements will generally be unacceptable.

## SCHEDULE "A"

N. Ownership - Value estimates will be furnished for a contiguous area of land owned by the same person, entity. Land will be deemed contiguous even though portions thereof are separated by roads, railroad rights-of-way, streams, etc, if interests held by the owners(s) are uniform and a reasonable likelihood exists for a near term integrated unitary purpose.

PROPERTY LOCATION:

OWNER OF RECORD/ SUBJECT IDENTIFIERS/ LAND AREA:

PIN No. Land Area

Total:

FORMAT:

Narrative Appraisal Report

In order to meet the requirements as an "Appraisal Report" , it must comply with Standard Rule 2-2 of the Uniform Standards of Professional Appraisal Practice as amended. A Limited and/or Restricted report is not acceptable .

ORIGINALS/ COPIES:  
(Reference: SCOPE: A.)

One original with original signatures and photographs and three copies with original signatures and photographs shall be furnished that comply with the Reporting standards of Uniform Appraisal Standards for Federal Acquisition and Uniform Standards of Professional Appraisal Practice.

SUPPLIED MATERIALS:

Upon issuance of a Notice to Proceed by the , the following materials will be supplied by the

1. Legal description of the subject property, with estates (interests) to be appraised.
2. Current title report that includes easements of record that run with the site
3. Assessor's maps with PIN number annotations
4. Zoning Map
5. Assessor's field cards of subject lots

*(Note: These are examples. Actual material requirements will vary)*

INSPECTIONS:

The appraiser is required to personally speak with the owner(s), their agents or representatives. In the case of this assignment this may require the appraiser of record to meet with owners' attorneys) or others. The appraiser will invite the owner or his designated representative to accompany him/her in the detailed inspection of the property and to give careful, considerate attention to all information and comments offered. The owner may be a prime source of detailed information of importance.

## SCHEDULE "A"

### DELIVERY:

A. The Contractor agrees to submit the completed appraisal report and all copies to the on or before the 15th calendar day following the effective date of the value estimate established by the Contractor.

B. The appraisal report and all copies shall be submitted within U calendar days after official notice to proceed.

PLACE OF DELIVERY:

APPRAISER LICENSING:

The "responsible appraiser" must be licensed as a Certified General Appraiser. The responsible appraiser shall be identified and a copy of the current State license must be submitted with the bid proposal.

### CONFERENCES:

Contractor shall make himself available for conferences, either by phone or at the office of the contractor. Said conferences are without additional cost to the

### **MODIFICATIONS OF DELIVERED APPRAISAL REPORT(S):**

Contractor shall modify or supplement any appraisal report where additional data is discovered that was known or should have been known to be in existence prior to the delivery of the report; where application of principles of law relating to real estate appraisals require the modification or supplementing of such appraisal report; the requirements of either Uniform Appraisal Standards For Federal Land Acquisitions or Uniform Standards of Professional Appraisal Practice have not been met. This service shall be rendered without additional cost to the

### PAYMENT:

The sum set out in the contract for the appraisal report shall constitute full payment to the contractor and shall include costs of all supplies, material, equipment and transportation incidental to preparing and delivering the report(s). The contract price shall be due and payable for acceptable appraisal reports in toto upon delivery and acceptance of such reports accompanied by a properly certified invoice.

### **APPRAISAL REPORTS TO BE CONFIDENTIAL:**

All information contained in the appraisal report to be made hereunder and all parts thereof are to be treated as strictly confidential. The contractor shall take all necessary steps to ensure that no member of staff or organization divulge any information concerning such appraisal reports to any person other than a duly authorized representative of the

SCHEDULE "B"

**FEES FOR SERVICES**

**1. PRINCIPLE APPRAISER:**

shall be the *PRINCIPLE APPRAISER*, shall sign the appraisal reports, and shall furnish testimony in accordance with **ARTICLE 5** of the contract, if required.

**2. SCHEDULE "TYPE OF PROPERTY:**

(Addresses/Improved/Unimproved/Residential/Commercial/Etc.) 3. ESTATES (INTERESTS):

Estates in land to be acquired in connection with the Project to include:

(Examples)

A. Fee Simple B. Before and After (Address damages in many cases) C. Flowage Easement D. Flood Protection Levee Easement E. Road Easement F. Temporary Work Area Easement

**4. SERVICES REQUIRED:**

A. The Contractor shall prepare, furnish and deliver to the an appraisal report covering the Fair Market Value and partial interests (as required) of, etc., etc.

B. DAMAGES as prescribed in SCHEDULE "A" for . This damage is based on an estimate that the underlying fee owner will be denied reasonable use of the site -

**5. APPRAISAL FEE:**

The following sum shall be paid for completion of an acceptable appraisal.

(SCHEDULE, AMOUNT AS REQUESTED)

**6. DELIVERY:**

A. The Contractor agrees to submit the completed appraisal report and all copies to the on or before the 15th calendar day following the effective date of value established by the Contractor.

B. The appraisal report and all copies shall be submitted within ( ) calendar days after official notice to proceed.

C. In the event that the completed report is not delivered to the \_\_\_\_\_ within the agreed upon delivery date, a penalty of \$000 will be deducted from the fee for each calendar day the completed report is not delivered unless the contractor has notified the \_\_\_\_\_ in writing ten (10) calendar days prior to that date showing good cause for the delay. The \_\_\_\_\_ shall have five (5) calendar days to accept or reject said delay. In no event shall the delivery exceed thirty (30) calendar days beyond the original due date. The penalty, as described above, shall be instituted regardless of reason the thirty-first (31st) calendar day after the extension of the original contract or any earlier agreed upon extension date, whichever occurs first.

## **7. UPDATING:**

A. The sum of \$000 will be paid for any modification of an accepted appraisal report or for any supplemental report where such request is made by the \_\_\_\_\_ within six months from the delivery of an approved appraisal report.

B. When a request for a supplemental appraisal or a modification of an accepted appraisal report is made more than six months after the delivery of an approved report, a sum equal to 50% of the original fee paid for the report will be paid for the modification or supplemental appraisal. In any event the minimum fee shall not be less than \$000. Modifications to reports and supplemental appraisals are to be performed in accordance with the guidelines set forth under **Schedule "A"** hereof.

C. Any modification request prior to acceptance of the appraisal report will be accomplished at no cost to the \_\_\_\_\_ pursuant to provisions contained in **ARTICLE 3** hereof.

## **8. INSPECTION(S):**

The appraiser is required to personally speak with the owner, their agents or representatives. In the case of this assignment this may require the appraiser of record to meet with owners' attorney, architect, accountants and others. The appraiser will invite the owner or his designated representative to accompany him/her in the detailed inspection of the property and to give careful, considerate attention to all information and comments offered. The owner may be a prime source of detailed information of importance.