
AGREEMENT FUNDING AMENDMENT
(Seventh Amendment to On-Call Real Estate Appraisal Services)

1. PARTIES

- 1.1 Parties. The Parties to this Agreement Funding Amendment (“Funding Amendment”) are **Scott Stephens & Associates, Inc.** (“Appraiser”) and **Harris County** (“County”), on behalf of its Harris County Engineering Department’s Real Property Division (“RPD”).

2. PURPOSE

- 2.1 Agreement Funding Amendment Description. On or about October 28, 2014, the County and Appraiser entered into an agreement for Professional Services (CAO File Number 14GEN1355) (“Agreement”) under which Appraiser was to perform tract appraisal services associated with the County's programs with a limit of appropriations of \$100,000.00. On or about October 27, 2015, the Parties amended the Agreement (CAO File Number 15GEN1524) to increase the limit of appropriations from a maximum appropriation of \$100,000.00 to \$200,000.00. On or about December 1, 2015, the Parties amended the Agreement a second time (CAO File Number 15GEN1688) to increase the limit of appropriations from a maximum appropriation of \$200,000.00 to \$300,000.00. On or about May 9, 2017, the Parties amended the Agreement a third time (CAO File Number 17GEN0820) to increase the limit of appropriations from a maximum appropriation of \$300,000.00 to \$400,000.00. On or about January 30, 2018, the Parties amended the Agreement a fourth time (CAO File Number 18GEN0021) to increase the limit of appropriations from a maximum appropriation of \$400,000.00 to \$500,000.00. On or about January 29, 2019, the Parties amended the Agreement a fifth time (CAO File Number 19GEN0110) to increase the limit of appropriations from a maximum appropriation of \$500,000.00 to \$700,000.00. On or about September 19, 2019, the Parties amended the Agreement a sixth time (CAO File Number 19GEN1824) to increase the limit of appropriations from a maximum appropriation of \$700,000.00 to \$1,000,000.00. County desires to continue to have available real estate appraisal services from Appraiser. Therefore, the parties desire to amend the Agreement a seventh time to increase the limit of appropriations from a maximum appropriation of \$1,000,000.00 to \$1,250,000.00.
- 2.2 Real Estate Appraisal Services. Appraiser represents that Appraiser is a licensed and certified real estate appraiser and shall, at all times pertinent to this Funding Amendment, maintain licensing and certification as a real estate appraiser under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN., ch. 1103.
- 2.3 Professional Services Procurement Act. The work performed under this Funding Amendment cannot be purchased on the basis of competitive bids since it is encompassed within Texas Government Code §2254.002(2).

3. SPECIFIC SCOPE OF WORK/SERVICES AND/OR DELIVERABLES

- 3.1 Specific work, products, services, licenses and/or deliverables. Appraiser shall provide any specified additional work, products, services, licenses and/or deliverables required to be provided by Appraiser as set out in this Funding Amendment and in Attachment A and all other referenced attachments incorporated in this Funding Amendment.
- 3.2 Certificate of Interested Parties Form 1295. Appraiser certifies that it has accurately completed and submitted a notarized Certificate of Interested Parties Form 1295 (“Form 1295”) in accordance with Texas Government Code §2252.908 and the rules adopted thereunder. Appraiser acknowledges that it is responsible for making any and all necessary updates and/or corrections to the applicable Form 1295 during the term of this Agreement. Appraiser must either (1) mail the completed Form 1295 to the Harris County Engineering Department at 1001 Preston, 7th Floor, Houston, TX 77002, Attn: Administrative Services or (2) submit the form by email to HCEAdminSvc@hcpid.org.

4. ADDITIONAL AND SPECIAL REQUIREMENTS

- 4.1 Authority of Harris County Engineer. The Harris County Engineer ("County Engineer") shall decide any and all questions that may arise as to the interpretation of this Amendment and all questions as to the acceptable fulfillment of this Amendment by Appraiser . It is mutually agreed by both Parties that the County Engineer shall act as referee between the Parties in all questions arising under the terms of this Amendment and that the decisions of the County Engineer shall be final and binding alike on all Parties. If agreed to in writing by Appraiser and the County Engineer (or designee), Appraiser and the County Engineer may make adjustments to the Scope of Work that do not destroy the purposes of this Amendment. In making the aforementioned adjustments to the Scope of Work, Appraiser and the County Engineer may adjust any corresponding firm fixed or maximum prices that neither increase the maximum amount of funds that Harris County Commissioners Court ("Commissioners Court") has authorized to be encumbered nor destroy the purposes of this Amendment. Any of the aforementioned adjustments to the Scope of Work and/or corresponding adjustments to any firm fixed or maximum prices (collectively, "Adjustments") may be reflected by a written Special Amendment to the Scope of Work in this Amendment ("Special Amendment"). Nothing contained in this section shall be construed to authorize the County Engineer to alter, vary, or amend any of the terms or provisions of this Amendment, other than the aforementioned Adjustments. The County Engineer is authorized on behalf of the County to make Adjustments (as defined herein) and execute a corresponding Special Amendment without further action by Commissioners Court. The Harris County Auditor ("County Auditor") is authorized, without further action by Commissioners Court, to certify additional funding for any Adjustments upon execution of a Special Amendment by the County Engineer.
- 4.2 Foreign Terrorists Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Appraiser warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Appraiser does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.
- 4.3 Anti-Boycott. In accordance with Tex. Gov't Code Ann. § 2270.002, Appraiser warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

5. FUNDING, COMPENSATION AND/OR BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 5.1 Payments/Compensation. For and in consideration of the work, products, services, licenses or deliverables provided under the Agreement and during the term of the Agreement, subject to the limitations in the Agreement, County shall pay Appraiser in accordance with the fee schedule and rates specified in the Agreement, including in the Attachments, up to the total maximum amount specifically appropriated, encumbered, and then certified as available by Harris County Auditor ("County Auditor").
- 5.2 Funding and Appropriations Limit. The following paragraph shall amend the corresponding funding paragraph(s) in the original Agreement and any subsequent amendment(s). County shall have no obligation to pay for and Appraiser shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by County Auditor. Any other provision notwithstanding, County shall never be liable to pay Appraiser any greater amount under the Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.
- 5.3 Auditor's Certification of Funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder.
- 5.4 Certification of Additional Funds. The amount of purchases under this Agreement will depend on the needs and requirements of County. For on-call agreements, additional funds are expected to be appropriated, encumbered, and certified on an as-needed basis up to the amount specified in this section. Therefore, the County Purchasing Agent and RPD are authorized to encumber and request certification of additional funds by the County Auditor up to a maximum amount of **TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00)** ("Additional Funds") to pay and discharge liabilities that County may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and

certification may be documented on a purchase order or on a form approved by the County Auditor. Appraiser should notify RPD when Appraiser has earned or received 90% of the available funds most recently certified by the County Auditor.

6. INSURANCE

- 6.1 Coverage and Limits. Appraiser shall procure, carry, and maintain appropriate liability insurance coverages in sufficient amounts and with adequate limits to cover potential damage, losses and liability that may arise directly or indirectly from work performed pursuant to this Agreement. In addition, Appraiser shall comply with any other insurance requirements specified in this Agreement, including in any Attachments. Upon written (including electronic) request, Appraiser shall provide proof of such liability insurance to RPD and /or the Harris County Purchasing Agent prior to the start of this Agreement. Appraiser shall require any subcontractors to also procure, carry, and maintain the insurance coverages in this section.

7. TERMINATION PROVISIONS

- 7.1 Determination of Material and Non-Material Breaches. County Engineer shall determine whether a breach of this Agreement by either Party is material or non-material. County Engineer's determination shall be final and binding alike on all Parties.
- 7.2 Non-Material Breaches. If either party refuses or fails to perform any of its non-material obligations in this Agreement, the other party may give written notice of the failure. If the breaching party fails or refuses to cure the failure of any non-material obligation in the notice within ten (10) calendar days after notice is given, the other party may terminate this Agreement immediately. Harris County Engineering Department ("HCED") is authorized to give notice for County.
- 7.3 Material Breaches
- 7.3.1 Suspension. HCED may suspend this Agreement immediately for any material breach by giving a notice of suspension. As soon as the notice of suspension is received, Appraiser shall discontinue all services in connection with the performance of this Agreement. HCED is authorized to suspend on behalf of County.
- 7.3.2 Termination. The County may terminate this Agreement for a material breach at any time by notice in writing to the Appraiser .
- 7.4 No Waiver of Remedies. The provisions in this Section are not intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement. The right to terminate for material or non-material breaches is in addition to and not in lieu of any other remedies.
- 7.5 Termination Statement. As soon as practicable after receiving notice of termination, Appraiser must submit a statement or invoice to HCED that complies with the requirements in this Agreement. This statement or invoice must show in detail the unbilled/uninvoiced services performed for County under this Agreement to the date of termination. If the payments were to be made in lump sums and services were rendered after the last lump sum payment, the statement or invoice shall reflect the prorated amount due.
- 7.6 Return of Documents after Termination. If permitted by law and any established ethical requirements applicable to specific professionals, Appraiser shall promptly deliver to HCED all completed or partially-completed work product, designs, data, information, and documents prepared under this Agreement on behalf of County. Within two (2) business days after the effective date of termination, Appraiser shall return to HCED all records, files, documents, notes and other items in Appraiser's possession, if any, relating to any assignments or work that Appraiser has undertaken or been given under this Agreement, if permitted by law and any established ethical requirements applicable to specific professionals. Appraiser shall deliver to HCED all completed or partially-completed designs, drawings and specifications prepared

under this Agreement, including the original electronic file format. Nothing in this section is intended to require Appraiser to surrender Appraiser's own records to HCED after termination.

- 7.7 Agreement Transition. In the event the Agreement ends by either expiration or termination prior to the end of its Term, the County may elect to name a replacement appraiser. Upon such occurrence, Appraiser shall, at the request of the County, assist in the transition of Appraiser's responsibilities under the Agreement. Appraiser acknowledges its responsibility to cooperate fully with the replacement appraiser and the County to ensure a smooth and timely transition. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

8. INDEMNIFICATION

- 8.1 No Waiver of Governmental Immunity. County does not waive any immunity or defense on behalf of itself, its employees or agents as a result of the execution of this Amendment.

9. MISCELLANEOUS


- 9.1 All the terms of the attached original Professional Services Agreement, and any Amendments, that are not in conflict with the terms of this Agreement Funding Amendment shall remain the same and shall apply to this Amendment.
- 9.2 Exhibit List. The following Attachment is a part of this Funding Amendment:
- Exhibit A-7. Rate Schedule
Exhibit B-7. First, Second, Third, Fourth, Fifth and Sixth Agreement Supplement and Original Professional Services Agreement
- 9.3 Electronic or Facsimile Signatures and Duplicate Originals. Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Funding Amendment may be conducted by electronic means. Pursuant to these statutes, this Funding Amendment may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Funding Amendment may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 9.4 Signatory Authorized to Execute Funding Amendment. The person executing this Funding Amendment on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Funding Amendment on behalf of the party.

[Execution Page Follows]

HARRIS COUNTY

By: _____
Lina Hidalgo
Harris County Judge

SCOTT STEPHENS & ASSOCIATES, INC.

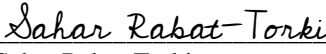
By:  _____
Scott P. Stephens MAI
President

APPROVED AS TO FORM:

ATTEST:

CHRISTIAN D. MENELEE
Harris County Attorney

By: _____
Secretary

By:  _____
Sahar Rabat-Torki
Assistant County Attorney
CAO File Number: 21GEN3209

FEE SCHEDULE FOR PROFESSIONAL REAL ESTATE APPRAISAL SERVICES

Upon the completion of review and acceptance by any federal funding entity Review Appraiser (such as the Army Corp of Engineers), the usual & customary assignments (Services as described in Exhibit A, Part 1) shall be compensated in lump sum amounts and hourly as indicated:

Activity & Rate for a 45 day turnaround

- | | |
|-------------------|---|
| 1. \$2,800/report | For Services performed in producing an Appraisal Report without extensive research. |
| 2. \$1,500/report | For Services performed in producing an updated Appraisal Report for Appraisals that are less than a year old. |
| 3. \$4,500/report | For Services performed in producing an Appraisal Report requiring extensive research. |
| 4. \$4,500/report | For Services performed in producing a Federal Yellow book appraisal report. |
| 5. \$750/report | For Services performed in producing a Residential Appraisal Report. |
| 6. \$150/hour | For Consultation Services or any Appraisal Report that requires more than 30 hours of work. |

Activity & Rate for a 30 day turnaround

- | | |
|-------------------|---|
| 1. \$3,000/report | For Services performed in producing an Appraisal Report without extensive research. |
| 2. \$1,500/report | For Services performed in producing an updated Appraisal Report for Appraisals that are less than a year old. |
| 3. \$5,000/report | For Services performed in producing an Appraisal Report requiring extensive research. |
| 4. \$5,000/report | For Services performed in producing a Federal Yellow book appraisal report. |
| 5. \$900/report | For Services performed in producing a Residential Appraisal Report. |
| 6. \$150/hour | For Consultation Services or any Appraisal Report that requires more than 30 hours of work. |

Activity & Rate for a 14 day turnaround

- | | |
|-------------------|---|
| 1. \$3,600/report | For Services performed in producing an Appraisal Report without extensive research. |
| 2. \$2,000/report | For Services performed in producing an Updated Appraisal Report for Appraisals that are less than a year old. |
| 3. \$6,000/report | For Services performed in producing an Appraisal Report requiring extensive research. |
| 4. \$5,500/report | For Services performed in producing a Federal Yellow book Appraisal Report. |
| 5. \$1,100/report | For Services performed in producing a Residential Appraisal Report. |
| 6. \$150/hour | For Consultation Services or any Appraisal Report that requires more than 30 hours of work. |

Exhibit B-7

AGREEMENT FUNDING AMENDMENT

(Sixth Amendment to On-Call Real Estate Appraisal Services Agreement)

1. PARTIES

- 1.1 **Parties.** The Parties to this Agreement Funding Amendment ("Funding Amendment") are **Scott Stephens & Associates, Inc.** ("Appraiser") and **Harris County** ("County"), on behalf of its Harris County Engineering Department's Right-of-Way Division ("ROW").

2. PURPOSE

- 2.1 **Agreement Funding Amendment Description.** On or about October 28, 2014, the COUNTY and APPRAISER entered into an agreement for Professional Services (CAO File Number 14GEN1355) ("Agreement") under which APPRAISER was to perform tract appraisal services associated with the County's programs with a limit of appropriations of \$100,000.00. On or about October 27, 2015, the Parties amended the Agreement (CAO File Number 15GEN1524) to increase the limit of appropriations from a maximum appropriation of \$100,000.00 to \$200,000.00. On or about December 1, 2015, the Parties amended the Agreement a second time (CAO File Number 15GEN1688) to increase the limit of appropriations from a maximum appropriation of \$200,000.00 to \$300,000.00. On or about May 9, 2017, the Parties amended the Agreement a third time (CAO File Number 17GEN0820) to increase the limit of appropriations from a maximum appropriation of \$300,000.00 to \$400,000.00. On or about January 30, 2018, the Parties amended the Agreement a fourth time (CAO File Number 18GEN0021) to increase the limit of appropriations from a maximum appropriation of \$400,000.00 to \$500,000.00. On or about January 29, 2019, the Parties amended the Agreement a fifth time (CAO File Number 19GEN0110) to increase the limit of appropriations from a maximum appropriation of \$500,000.00 to \$700,000.00. COUNTY desires to continue to have available real estate appraisal services from APPRAISER. Therefore, the parties desire to amend the Agreement a sixth time to increase the limit of appropriations from a maximum appropriation of \$700,000.00 to \$1,000,000.00.
- 2.2 **Real Estate Appraisal Services.** Appraiser represents that Appraiser is a licensed and certified real estate appraiser and shall, at all times pertinent to this Funding Amendment, maintain licensing and certification as a real estate appraiser under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN., ch. 1103.
- 2.3 **Professional Services Procurement Act.** The work performed under this Funding Amendment cannot be purchased on the basis of competitive bids since it is encompassed within Texas Government Code §2254.002(2).

3. SPECIFIC SCOPE OF WORK/SERVICES AND/OR DELIVERABLES

- 3.1 **Specific work, products, services, licenses and/or deliverables.** Appraiser shall provide any specified additional work, products, services, licenses and/or deliverables required to be provided by Appraiser as set out in this Funding Amendment and in Attachment A and all other referenced attachments incorporated in this Funding Amendment.
- 3.2 **Certificate of Interested Parties Form 1295.** Appraiser certifies that it has accurately completed and submitted a notarized Certificate of Interested Parties Form 1295 ("Form 1295") in accordance with Texas Government Code §2252.908 and the rules adopted thereunder. Appraiser acknowledges that it is responsible for making any and all necessary updates and/or corrections to the applicable Form 1295 during the term of this Agreement. Appraiser must either (1) mail the completed Form 1295 to the Harris County Engineering Department at 1001 Preston, 7th Floor, Houston, TX 77002, Attn: Administrative Services or (2) submit the form by email to HCEDAdminSvc@hccpid.org.

4. ADDITIONAL AND SPECIAL REQUIREMENTS

- 4.1 Authority of Harris County Engineer. The Harris County Engineer ("County Engineer") shall decide any and all questions that may arise as to the interpretation of this Amendment and all questions as to the acceptable fulfillment of this Amendment by Appraiser. It is mutually agreed by both Parties that the County Engineer shall act as referee between the Parties in all questions arising under the terms of this Amendment and that the decisions of the County Engineer shall be final and binding alike on all Parties. If agreed to in writing by Appraiser and the County Engineer (or designee), Appraiser and the County Engineer may make adjustments to the Scope of Work that do not destroy the purposes of this Amendment. In making the aforementioned adjustments to the Scope of Work, Appraiser and the County Engineer may adjust any corresponding firm fixed or maximum prices that neither increase the maximum amount of funds that Harris County Commissioners Court ("Commissioners Court") has authorized to be encumbered nor destroy the purposes of this Amendment. Any of the aforementioned adjustments to the Scope of Work and/or corresponding adjustments to any firm fixed or maximum prices (collectively, "Adjustments") may be reflected by a written Special Amendment to the Scope of Work in this Amendment ("Special Amendment"). Nothing contained in this section shall be construed to authorize the County Engineer to alter, vary, or amend any of the terms or provisions of this Amendment, other than the aforementioned Adjustments. The County Engineer is authorized on behalf of the County to make Adjustments (as defined herein) and execute a corresponding Special Amendment without further action by Commissioners Court. The Harris County Auditor ("County Auditor") is authorized, without further action by Commissioners Court, to certify additional funding for any Adjustments upon execution of a Special Amendment by the County Engineer.
- 4.2 Foreign Terrorists Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Appraiser warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Appraiser does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.
- 4.3 Anti-Boycott. In accordance with Tex. Gov't Code Ann. § 2270.002, Appraiser warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

5. FUNDING, COMPENSATION AND/OR BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 5.1 Payments/Compensation. For and in consideration of the work, products, services, licenses or deliverables provided under the Agreement and during the term of the Agreement, subject to the limitations in the Agreement, County shall pay Appraiser in accordance with the fee schedule and rates specified in the Agreement, including in the Attachments, up to the total maximum amount specifically appropriated, encumbered, and then certified as available by Harris County Auditor ("County Auditor").
- 5.2 Funding and Appropriations Limit. The following paragraph shall amend the corresponding funding paragraph(s) in the original Agreement and any subsequent amendment(s). County shall have no obligation to pay for and Appraiser shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by County Auditor. Any other provision notwithstanding, County shall never be liable to pay Appraiser any greater amount under the Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.
- 5.3 Auditor's Certification of Funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder.
- 5.4 Certification of Additional Funds. The amount of purchases under this Agreement will depend on the needs and requirements of County. For on-call agreements, additional funds are expected to be appropriated, encumbered, and certified on an as-needed basis up to the amount specified in this section. Therefore, the County Purchasing Agent and ROW are authorized to encumber and request certification of additional funds by the County Auditor up to a maximum amount of **THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00)**. ("Additional Funds") to pay and discharge liabilities that County may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and certification may be documented on a purchase order or on a form approved by the County Auditor.

Appraiser should notify ROW when Appraiser has earned or received 90% of the available funds most recently certified by the County Auditor.

6. INSURANCE

- 6.1 Coverage and Limits. Appraiser shall procure, carry, and maintain appropriate liability insurance coverages in sufficient amounts and with adequate limits to cover potential damage, losses and liability that may arise directly or indirectly from work performed pursuant to this Agreement. In addition, Appraiser shall comply with any other insurance requirements specified in this Agreement, including in any Attachments. Upon written (including electronic) request, Appraiser shall provide proof of such liability insurance to ROW and /or the Harris County Purchasing Agent prior to the start of this Agreement. Appraiser shall require any subcontractors to also procure, carry, and maintain the insurance coverages in this section.

7. TERMINATION PROVISIONS

- 7.1 Determination of Material and Non-Material Breaches. County Engineer shall determine whether a breach of this Agreement by either Party is material or non-material. County Engineer's determination shall be final and binding alike on all Parties.
- 7.2 Non-Material Breaches. If either party refuses or fails to perform any of its non-material obligations in this Agreement, the other party may give written notice of the failure. If the breaching party fails or refuses to cure the failure of any non-material obligation in the notice within ten (10) calendar days after notice is given, the other party may terminate this Agreement immediately. HCED is authorized to give notice for County.
- 7.3 Material Breaches
- 7.3.1 Suspension. HCED may suspend this Agreement immediately for any material breach by giving a notice of suspension. As soon as the notice of suspension is received, Appraiser shall discontinue all services in connection with the performance of this Agreement. HCED is authorized to suspend on behalf of County.
- 7.3.2 Termination. The County may terminate this Agreement for a material breach at any time by notice in writing to the Appraiser .
- 7.4 No Waiver of Remedies. The provisions in this Section are not intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement. The right to terminate for material or non-material breaches is in addition to and not in lieu of any other remedies.
- 7.5 Termination Statement. As soon as practicable after receiving notice of termination, Appraiser must submit a statement or invoice to HCED that complies with the requirements in this Agreement. This statement or invoice must show in detail the unbilled/uninvoiced services performed for County under this Agreement to the date of termination. If the payments were to be made in lump sums and services were rendered after the last lump sum payment, the statement or invoice shall reflect the prorated amount due.
- 7.6 Return of Documents after Termination. If permitted by law and any established ethical requirements applicable to specific professionals, Appraiser shall promptly deliver to HCED all completed or partially-completed work product, designs, data, information, and documents prepared under this Agreement on behalf of County. Within two (2) business days after the effective date of termination, Appraiser shall return to HCED all records, files, documents, notes and other items in Appraiser's possession, if any, relating to any assignments or work that Appraiser has undertaken or been given under this Agreement, if permitted by law and any established ethical requirements applicable to specific professionals. Appraiser shall deliver to HCED all completed or partially-completed designs, drawings and specifications prepared

under this Agreement, including the original electronic file format. Nothing in this section is intended to require Appraiser to surrender Appraiser's own records to HCED after termination.

- 7.7 Agreement Transition. In the event the Agreement ends by either expiration or termination prior to the end of its Term, the County may elect to name a replacement appraiser. Upon such occurrence, Appraiser shall, at the request of the County, assist in the transition of Appraiser's responsibilities under the Agreement. Appraiser acknowledges its responsibility to cooperate fully with the replacement appraiser and the County to ensure a smooth and timely transition. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

8. INDEMNIFICATION

- 8.1 No Waiver of Governmental Immunity. County does not waive any immunity or defense on behalf of itself, its employees or agents as a result of the execution of this Amendment.

9. MISCELLANEOUS

- 9.1 All the terms of the attached original Professional Services Agreement, and any Amendments, that are not in conflict with the terms of this Agreement Funding Amendment shall remain the same and shall apply to this Amendment.
- 9.2 Exhibit List. The following Attachment is a part of this Funding Amendment:

Exhibit A-6-First, Second, Third, Fourth, Fifth Agreement Supplement and Original Professional Services Agreement
- 9.3 Electronic or Facsimile Signatures and Duplicate Originals. Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Funding Amendment may be conducted by electronic means. Pursuant to these statutes, this Funding Amendment may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Funding Amendment may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 9.4 Signatory Authorized to Execute Funding Amendment. The person executing this Funding Amendment on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Funding Amendment on behalf of the party.

[EXECUTION PAGE FOLLOWS]

HARRIS COUNTY

By: *Lina Hidalgo*
Lina Hidalgo
Harris County Judge

SCOTT STEPHENS & ASSOCIATES, INC.

By: *Scott P. Stephens*
Scott P. Stephens, MAI
President

APPROVED AS TO FORM:

ATTEST:

VINCE RYAN
Harris County Attorney

By: _____
Secretary

By: *Neeharika Tumati*
Neeharika Tumati
Assistant County Attorney
CAO File Number: 19GEN1824

Exhibit A-6

AGREEMENT FUNDING AMENDMENT
(Fifth Amendment to On-Call Real Estate Appraisal Services Agreement)

1. PARTIES

- 1.1 Parties. The Parties to this Agreement Funding Amendment ("Funding Amendment") are **Scott Stephens & Associates, Inc.** ("Appraiser") and **Harris County** ("County"), on behalf of its Harris County Engineering Department's Right-of-Way Division ("ROW").

2. PURPOSE

- 2.1 Agreement Funding Amendment Description. On or about October 28, 2014, the COUNTY and APPRAISER entered into an agreement for Professional Services (CAO File Number 14GEN1355) ("Agreement") under which APPRAISER was to perform tract appraisal services associated with the County's programs with a limit of appropriations of \$100,000.00. On or about October 27, 2015, the Parties amended the Agreement (CAO File Number 15GEN1524) to increase the limit of appropriations from a maximum appropriation of \$100,000.00 to \$200,000.00. On or about December 1, 2015, the Parties amended the Agreement a second time (CAO File Number 15GEN1688) to increase the limit of appropriations from a maximum appropriation of \$200,000.00 to \$300,000.00. On or about May 9, 2017, the Parties amended the Agreement a third time (CAO File Number 17GEN0820) to increase the limit of appropriations from a maximum appropriation of \$300,000.00 to \$400,000.00. On or about January 30, 2018, the Parties amended the Agreement a fourth time (CAO File Number 18GEN0021) to increase the limit of appropriations from a maximum appropriation of \$400,000.00 to \$500,000.00. COUNTY desires to continue to have available real estate appraisal services from APPRAISER. Therefore, the parties desire to amend the Agreement a fifth time to increase the limit of appropriations from a maximum appropriation of \$500,000.00 to \$700,000.00.
- 2.2 Real Estate Appraisal Services. Appraiser represents that Appraiser is a licensed and certified real estate appraiser and shall, at all times pertinent to this Funding Amendment, maintain licensing and certification as a real estate appraiser under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN., ch. 1103.
- 2.3 Professional Services Procurement Act. The work performed under this Funding Amendment cannot be purchased on the basis of competitive bids since it is encompassed within Texas Government Code §2254.002(2).

3. SPECIFIC SCOPE OF WORK/SERVICES AND/OR DELIVERABLES

- 3.1 Specific work, products, services, licenses and/or deliverables. Appraiser shall provide any specified additional work, products, services, licenses and/or deliverables required to be provided by Appraiser as set out in this Funding Amendment and in Attachment A and all other referenced attachments incorporated in this Funding Amendment.
- 3.2 Certificate of Interested Parties Form 1295. Appraiser certifies that it has accurately completed and submitted a notarized Certificate of Interested Parties Form 1295 ("Form 1295") in accordance with Texas Government Code §2252.908 and the rules adopted thereunder. Appraiser acknowledges that it is responsible for making any and all necessary updates and/or corrections to the applicable Form 1295 during the term of this Agreement. Appraiser must either (1) mail the completed Form 1295 to the Harris County Engineering Department at 1001 Preston, 7th Floor, Houston, TX 77002, Attn: Administrative Services or (2) submit the form by email to HCEDAdminSvc@hccpid.org.

4. ADDITIONAL AND SPECIAL REQUIREMENTS

- 4.1 Authority of Harris County Engineer. The Harris County Engineer ("County Engineer") shall decide any and all questions that may arise as to the interpretation of this Amendment and all questions as to the acceptable fulfillment of this Amendment by Appraiser. It is mutually agreed by both Parties that the

County Engineer shall act as referee between the Parties in all questions arising under the terms of this Amendment and that the decisions of the County Engineer shall be final and binding alike on all Parties. If agreed to in writing by Appraiser and the County Engineer (or designee), Appraiser and the County Engineer may make adjustments to the Scope of Work that do not destroy the purposes of this Amendment. In making the aforementioned adjustments to the Scope of Work, Appraiser and the County Engineer may adjust any corresponding firm fixed or maximum prices that neither increase the maximum amount of funds that Harris County Commissioners Court ("Commissioners Court") has authorized to be encumbered nor destroy the purposes of this Amendment. Any of the aforementioned adjustments to the Scope of Work and/or corresponding adjustments to any firm fixed or maximum prices (collectively, "Adjustments") may be reflected by a written Special Amendment to the Scope of Work in this Amendment ("Special Amendment"). Nothing contained in this section shall be construed to authorize the County Engineer to alter, vary, or amend any of the terms or provisions of this Amendment, other than the aforementioned Adjustments. The County Engineer is authorized on behalf of the County to make Adjustments (as defined herein) and execute a corresponding Special Amendment without further action by Commissioners Court. The Harris County Auditor ("County Auditor") is authorized, without further action by Commissioners Court, to certify additional funding for any Adjustments upon execution of a Special Amendment by the County Engineer.

- 4.2 Foreign Terrorists Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Appraiser warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Appraiser does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.
- 4.3 Anti-Boycott. In accordance with Tex. Gov't Code Ann. § 2270.002, Appraiser warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

5. FUNDING, COMPENSATION AND/OR BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 5.1 Payments/Compensation. For and in consideration of the work, products, services, licenses or deliverables provided under the Agreement and during the term of the Agreement, subject to the limitations in the Agreement, County shall pay Appraiser in accordance with the fee schedule and rates specified in the Agreement, including in the Attachments, up to the total maximum amount specifically appropriated, encumbered, and then certified as available by Harris County Auditor ("County Auditor").
- 5.2 Funding and Appropriations Limit. The following paragraph shall amend the corresponding funding paragraph(s) in the original Agreement and any subsequent amendment(s). County shall have no obligation to pay for and Appraiser shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by County Auditor. Any other provision notwithstanding, County shall never be liable to pay Appraiser any greater amount under the Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.
- 5.3 Auditor's Certification of Funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder.
- 5.4 Certification of Additional Funds. The amount of purchases under this Agreement will depend on the needs and requirements of County. For on-call agreements, additional funds are expected to be appropriated, encumbered, and certified on an as-needed basis up to the amount specified in this section. Therefore, the County Purchasing Agent and ROW are authorized to encumber and request certification of additional funds by the County Auditor up to a maximum amount of **TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00)**. ("Additional Funds") to pay and discharge liabilities that County may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and certification may be documented on a purchase order or on a form approved by the County Auditor. Appraiser should notify ROW when Appraiser has earned or received 90% of the available funds most recently certified by the County Auditor.

6. INSURANCE

- 6.1 Coverage and Limits. Appraiser shall procure, carry, and maintain appropriate liability insurance coverages in sufficient amounts and with adequate limits to cover potential damage, losses and liability that may arise directly or indirectly from work performed pursuant to this Agreement. In addition, Appraiser shall comply with any other insurance requirements specified in this Agreement, including in any Attachments. Upon written (including electronic) request, Appraiser shall provide proof of such liability insurance to ROW and /or the Harris County Purchasing Agent prior to the start of this Agreement. Appraiser shall require any subcontractors to also procure, carry, and maintain the insurance coverages in this section.

7. TERMINATION PROVISIONS

- 7.1 Determination of Material and Non-Material Breaches. County Engineer shall determine whether a breach of this Agreement by either Party is material or non-material. County Engineer's determination shall be final and binding alike on all Parties.
- 7.2 Non-Material Breaches. If either party refuses or fails to perform any of its non-material obligations in this Agreement, the other party may give written notice of the failure. If the breaching party fails or refuses to cure the failure of any non-material obligation in the notice within ten (10) calendar days after notice is given, the other party may terminate this Agreement immediately. HCED is authorized to give notice for County.
- 7.3 Material Breaches
- 7.3.1 Suspension. HCED may suspend this Agreement immediately for any material breach by giving a notice of suspension. As soon as the notice of suspension is received, Appraiser shall discontinue all services in connection with the performance of this Agreement. HCED is authorized to suspend on behalf of County.
- 7.3.2 Termination. The County may terminate this Agreement for a material breach at any time by notice in writing to the Appraiser .
- 7.4 No Waiver of Remedies. The provisions in this Section are not intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement. The right to terminate for material or non-material breaches is in addition to and not in lieu of any other remedies.
- 7.5 Termination Statement. As soon as practicable after receiving notice of termination, Appraiser must submit a statement or invoice to HCED that complies with the requirements in this Agreement. This statement or invoice must show in detail the unbilled/uninvoiced services performed for County under this Agreement to the date of termination. If the payments were to be made in lump sums and services were rendered after the last lump sum payment, the statement or invoice shall reflect the prorated amount due.
- 7.6 Return of Documents after Termination. If permitted by law and any established ethical requirements applicable to specific professionals, Appraiser shall promptly deliver to HCED all completed or partially-completed work product, designs, data, information, and documents prepared under this Agreement on behalf of County. Within two (2) business days after the effective date of termination, Appraiser shall return to HCED all records, files, documents, notes and other items in Appraiser 's possession, if any, relating to any assignments or work that Appraiser has undertaken or been given under this Agreement, if permitted by law and any established ethical requirements applicable to specific professionals. Appraiser shall deliver to HCED all completed or partially-completed designs, drawings and specifications prepared under this Agreement, including the original electronic file format. Nothing in this section is intended to require Appraiser to surrender Appraiser 's own records to HCED after termination.
- 7.7 Agreement Transition. In the event the Agreement ends by either expiration or termination prior to the end of its Term, the County may elect to name a replacement appraiser. Upon such occurrence, Appraiser shall,

at the request of the County, assist in the transition of Appraiser 's responsibilities under the Agreement. Appraiser acknowledges its responsibility to cooperate fully with the replacement appraiser and the County to ensure a smooth and timely transition. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

8. INDEMNIFICATION

- 8.1 No Waiver of Governmental Immunity. County does not waive any immunity or defense on behalf of itself, its employees or agents as a result of the execution of this Amendment.

9. MISCELLANEOUS

- 9.1 All the terms of the attached original Professional Services Agreement, and any Amendments, that are not in conflict with the terms of this Agreement Funding Amendment shall remain the same and shall apply to this Amendment.
- 9.2 Exhibit List. The following Attachment is a part of this Funding Amendment:


Exhibit A-5 - First, Second, Third and Fourth Agreement Supplement and Original Professional Services Agreement
- 9.3 Electronic or Facsimile Signatures and Duplicate Originals. Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Funding Amendment may be conducted by electronic means. Pursuant to these statutes, this Funding Amendment may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Funding Amendment may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 9.4 Signatory Authorized to Execute Funding Amendment. The person executing this Funding Amendment on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Funding Amendment on behalf of the party.

[EXECUTION PAGE FOLLOWS]

HARRIS COUNTY

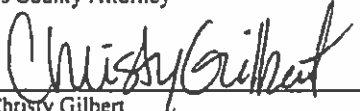
By: 
Lina Hidalgo
Harris County Judge

SCOTT STEPHENS & ASSOCIATES, INC.

By: 
Scott P. Stephens, MAI
President

APPROVED AS TO FORM:

VINCE RYAN
Harris County Attorney

By: 
Christy Gilbert
Assistant County Attorney
CAO File Number: 19GEN0110

ATTEST:

By: _____
Secretary

Exhibit A-5

AGREEMENT FUNDING AMENDMENT

(Fourth Amendment to On-Call Real Estate Appraisal Services Agreement)

1. PARTIES

- 1.1 Parties. The Parties to this Agreement Funding Amendment ("Funding Amendment") are **Scott Stephens & Associates, Inc.** ("Appraiser") and **Harris County** ("County"), on behalf of its Harris County Engineering Department's Right-of-Way Division ("ROW").

2. PURPOSE

- 2.1 Agreement Funding Amendment Description. On or about October 28, 2014, the County and Appraiser entered into an agreement for Professional Services (CAO File Number 14GEN1355) ("Agreement") under which Appraiser was to perform tract appraisal services associated with the County's programs with a limit of appropriations of \$100,000.00. On or about October 27, 2015, the Parties amended the Agreement (CAO File Number 15GEN1524) to increase the limit of appropriations from a maximum appropriation of \$100,000.00 to \$200,000.00. On or about December 1, 2015, the Parties amended the Agreement a second time (CAO File Number 15GEN1688) to increase the limit of appropriations from a maximum appropriation of \$200,000.00 to \$300,000.00. On or about May 9, 2017, the Parties amended the Agreement a third time (CAO File Number 17GEN0820) to increase the limit of appropriations from a maximum appropriation of \$300,000.00 to \$400,000.00. County desires to continue to have available real estate appraisal services from APPRAISER. Therefore, the parties desire to amend the Agreement a fourth time to increase the limit of appropriations from a maximum appropriation of \$400,000.00 to \$500,000.00.
- 2.2 Real Estate Appraisal Services. Appraiser represents that Appraiser is a licensed and certified real estate appraiser and shall, at all times pertinent to this Funding Amendment, maintain licensing and certification as a real estate appraiser under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN., ch. 1103.
- 2.3 Professional Services Procurement Act. The work performed under this Funding Amendment cannot be purchased on the basis of competitive bids since it is encompassed within Texas Government Code §2254.002(2).

3. SPECIFIC SCOPE OF WORK/SERVICES AND/OR DELIVERABLES

- 3.1 Specific work, products, services, licenses and/or deliverables. Appraiser shall provide any specified additional work, products, services, licenses and/or deliverables required to be provided by Appraiser as set out in this Funding Amendment and in Attachment A and all other referenced attachments incorporated in this Funding Amendment.
- 3.2 Certificate of Interested Parties Form 1295. Appraiser certifies that it has accurately completed and submitted a notarized Certificate of Interested Parties Form 1295 ("Form 1295") in accordance with Texas Government Code §2252.908 and the rules adopted thereunder. Appraiser acknowledges that it is responsible for making any and all necessary updates and/or corrections to the applicable Form 1295 during the term of this Agreement. Appraiser must either (1) mail the completed Form 1295 to the Harris County Engineering Department at 1001 Preston, 7th Floor, Houston, TX 77002. Attn: Administrative Services or (2) submit the form by email to HCEAdminSvc@hcid.org.

4. ADDITIONAL AND SPECIAL REQUIREMENTS

- 4.1 Authority of Harris County Engineer. The Harris County Engineer ("County Engineer") shall decide any and all questions that may arise as to the interpretation of this Amendment and all questions as to the acceptable fulfillment of this Amendment by Appraiser. It is mutually agreed by both Parties that the County Engineer shall act as referee between the Parties in all questions arising under the terms of this Amendment and that the decisions of the County Engineer shall be final and binding alike on all Parties. If agreed to in writing by Appraiser and the County Engineer (or designee), Appraiser and the County

Engineer may make adjustments to the Scope of Work that do not destroy the purposes of this Amendment. In making the aforementioned adjustments to the Scope of Work, Appraiser and the County Engineer may adjust any corresponding firm fixed or maximum prices that neither increase the maximum amount of funds that Harris County Commissioners Court ("Commissioners Court") has authorized to be encumbered nor destroy the purposes of this Amendment. Any of the aforementioned adjustments to the Scope of Work and/or corresponding adjustments to any firm fixed or maximum prices (collectively, "Adjustments") may be reflected by a written Special Amendment to the Scope of Work in this Amendment ("Special Amendment"). Nothing contained in this section shall be construed to authorize the County Engineer to alter, vary, or amend any of the terms or provisions of this Amendment, other than the aforementioned Adjustments. The County Engineer is authorized on behalf of the County to make Adjustments (as defined herein) and execute a corresponding Special Amendment without further action by Commissioners Court. The Harris County Auditor ("County Auditor") is authorized, without further action by Commissioners Court, to certify additional funding for any Adjustments upon execution of a Special Amendment by the County Engineer.

- 4.2 Foreign Terrorists Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Appraiser warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Appraiser does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.
- 4.3 Anti-Boycott. In accordance with Tex. Gov't Code Ann. § 2270.002, Appraiser warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

5. FUNDING, COMPENSATION AND/OR BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 5.1 Payments/Compensation. For and in consideration of the work, products, services, licenses or deliverables provided under the Agreement and during the term of the Agreement, subject to the limitations in the Agreement, County shall pay Appraiser in accordance with the fee schedule and rates specified in the Agreement, including in the Attachments, up to the total maximum amount specifically appropriated, encumbered, and then certified as available by Harris County Auditor ("County Auditor").
- 5.2 Funding and Appropriations Limit. The following paragraph shall amend the corresponding funding paragraph(s) in the original Agreement and any subsequent amendment(s). County shall have no obligation to pay for and Appraiser shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by County Auditor. Any other provision notwithstanding, County shall never be liable to pay Appraiser any greater amount under the Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.
- 5.3 Auditor's Certification of Funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder.
- 5.4 Certification of Additional Funds. The amount of purchases under this Agreement will depend on the needs and requirements of County. For on-call agreements, additional funds are expected to be appropriated, encumbered, and certified on an as-needed basis up to the amount specified in this section. Therefore, the County Purchasing Agent and ROW are authorized to encumber and request certification of additional funds by the County Auditor up to a maximum amount of **ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00)** ("Additional Funds") to pay and discharge liabilities that County may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and certification may be documented on a purchase order or on a form approved by the County Auditor. Appraiser should notify ROW when Appraiser has earned or received 90% of the available funds most recently certified by the County Auditor.

6. INSURANCE

- 6.1 Coverage and Limits. Appraiser shall procure, carry, and maintain appropriate liability insurance coverages in sufficient amounts and with adequate limits to cover potential damage, losses and liability that may arise

directly or indirectly from work performed pursuant to this Agreement. In addition, Appraiser shall comply with any other insurance requirements specified in this Agreement, including in any Attachments. Upon written (including electronic) request, Appraiser shall provide proof of such liability insurance to ROW and/or the Harris County Purchasing Agent prior to the start of this Agreement. Appraiser shall require any subcontractors to also procure, carry, and maintain the insurance coverages in this section.

7. TERMINATION PROVISIONS

- 7.1 Determination of Material and Non-Material Breaches. County Engineer shall determine whether a breach of this Agreement by either Party is material or non-material. County Engineer's determination shall be final and binding alike on all Parties.
- 7.2 Non-Material Breaches. If either party refuses or fails to perform any of its non-material obligations in this Agreement, the other party may give written notice of the failure. If the breaching party fails or refuses to cure the failure of any non-material obligation in the notice within ten (10) calendar days after notice is given, the other party may terminate this Agreement immediately. HCED is authorized to give notice for County.
- 7.3 Material Breaches
- 7.3.1 Suspension. HCED may suspend this Agreement immediately for any material breach by giving a notice of suspension. As soon as the notice of suspension is received, Appraiser shall discontinue all services in connection with the performance of this Agreement. HCED is authorized to suspend on behalf of County.
- 7.3.2 Termination. The County may terminate this Agreement for a material breach at any time by notice in writing to the Appraiser.
- 7.4 No Waiver of Remedies. The provisions in this Section are not intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement. The right to terminate for material or non-material breaches is in addition to and not in lieu of any other remedies.
- 7.5 Termination Statement. As soon as practicable after receiving notice of termination, Appraiser must submit a statement or invoice to HCED that complies with the requirements in this Agreement. This statement or invoice must show in detail the unbilled/uninvoiced services performed for County under this Agreement to the date of termination. If the payments were to be made in lump sums and services were rendered after the last lump sum payment, the statement or invoice shall reflect the prorated amount due.
- 7.6 Return of Documents after Termination. If permitted by law and any established ethical requirements applicable to specific professionals, Appraiser shall promptly deliver to HCED all completed or partially-completed work product, designs, data, information, and documents prepared under this Agreement on behalf of County. Within two (2) business days after the effective date of termination, Appraiser shall return to HCED all records, files, documents, notes and other items in Appraiser's possession, if any, relating to any assignments or work that Appraiser has undertaken or been given under this Agreement, if permitted by law and any established ethical requirements applicable to specific professionals. Appraiser shall deliver to HCED all completed or partially-completed designs, drawings and specifications prepared under this Agreement, including the original electronic file format. Nothing in this section is intended to require Appraiser to surrender Appraiser's own records to HCED after termination.
- 7.7 Agreement Transition. In the event the Agreement ends by either expiration or termination prior to the end of its Term, the County may elect to name a replacement appraiser. Upon such occurrence, Appraiser shall, at the request of the County, assist in the transition of Appraiser's responsibilities under the Agreement. Appraiser acknowledges its responsibility to cooperate fully with the replacement appraiser and the County to ensure a smooth and timely transition. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any

transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

8. INDEMNIFICATION

- 8.1 No Waiver of Governmental Immunity. County does not waive any immunity or defense on behalf of itself, its employees or agents as a result of the execution of this Amendment.

9. MISCELLANEOUS

- 9.1 All the terms of the attached original Professional Services Agreement, and any Amendments, that are not in conflict with the terms of this Agreement Funding Amendment shall remain the same and shall apply to this Amendment.
- 9.2 Exhibit List. The following Attachment is a part of this Funding Amendment:

Exhibit A-4 - First, Second, Third Agreement Supplement and Original Professional Services Agreement
- 9.3 Electronic or Facsimile Signatures and Duplicate Originals. Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Funding Amendment may be conducted by electronic means. Pursuant to these statutes, this Funding Amendment may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Funding Amendment may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 9.4 Signatory Authorized to Execute Funding Amendment. The person executing this Funding Amendment on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Funding Amendment on behalf of the party.

[EXECUTION PAGE FOLLOWS]

HARRIS COUNTY

By: _____
Ed Emmett
Harris County Judge

SCOTT STEPHENS & ASSOCIATES, INC.

By: _____
Scott P. Stephens, M.A.
President

APPROVED AS TO FORM:

ATTEST:

VINCE RYAN
Harris County Attorney

By: _____
Pegi S. Block
Assistant County Attorney
CAO File Number: 18GBN0021

By: _____
Secretary

Exhibit A-4

AGREEMENT FUNDING AMENDMENT (Third Amendment On-Call Real Estate Appraisal Services)

1. PARTIES

- 1.1 Parties. The Parties to this Agreement Funding Amendment ("Funding Amendment") are Scott Stephens & Associates, Inc. ("Appraiser") and Harris County ("County"), on behalf of its Harris County Engineering Department's Right-of-Way Division ("ROW").

2. PURPOSE

- 2.1 Agreement Funding Amendment Description. On or about October 28, 2014, the County and Appraiser entered into an agreement for Professional Services (CAO File Number 14GEN1355) ("Agreement") under which Appraiser was to perform tract appraisal services associated with the County's programs with a limit of appropriations of \$100,000.00. On or about October 27, 2015, the Parties amended the Agreement (CAO File Number 15GEN1524) to increase the limit of appropriations from a maximum appropriation of \$100,000.00 to \$200,000.00. On or about December 1, 2015, the Parties amended the Agreement a second time (CAO File Number 15GEN1688) to increase the limit of appropriations from a maximum appropriation of \$200,000.00 to \$300,000.00. County desires to continue to have available real estate appraisal services from Appraiser. Therefore, the Parties desire to amend the Agreement a third time to increase the limit of appropriations from a maximum appropriation of \$300,000.00 to \$400,000.00.

3. SPECIFIC SCOPE OF WORK/SERVICES AND/OR DELIVERABLES

- 3.1 Specific work, products, services, licenses and/or deliverables. Appraiser shall provide any specified additional work, products, services, licenses and/or deliverables required to be provided by Appraiser as set out in this Funding Amendment and in Attachment A and all other referenced attachments incorporated in this Funding Amendment.
- 3.2 Certificate of Interested Parties Form 1295. Appraiser certifies that it has accurately completed and submitted a notarized Certificate of Interested Parties Form 1295 ("Form 1295") in accordance with Texas Government Code §2252.908 and the rules adopted thereunder. Appraiser acknowledges that it is responsible for making any and all necessary updates and/or corrections to the applicable Form 1295 during the term of this Agreement. Appraiser must either (1) mail the completed Form 1295 to the Harris County Engineering Department at 1001 Preston, 7th Floor, Houston, TX 77002. Attn: Administrative Services or (2) submit the form by email to HCEAdminSvc@hepid.org.

4. ADDITIONAL AND SPECIAL REQUIREMENTS

- 4.1 Authority of Harris County Engineer. The Harris County Engineer ("County Engineer") shall decide any and all questions that may arise as to the interpretation of this Amendment and all questions as to the acceptable fulfillment of this Amendment by Appraiser. It is mutually agreed by both Parties that the County Engineer shall act as referee between the Parties in all questions arising under the terms of this Amendment and that the decisions of the County Engineer shall be final and binding alike on all Parties. If agreed to in writing by Appraiser and the County Engineer (or designee), Appraiser and the County Engineer may make adjustments to the Scope of Work that do not destroy the purposes of this Amendment. In making the aforementioned adjustments to the Scope of Work, Appraiser and the County Engineer may adjust any corresponding firm fixed or maximum prices that neither increase the maximum amount of funds that Harris County Commissioners Court ("Commissioners Court") has authorized to be encumbered nor destroy the purposes of this Amendment. Any of the aforementioned adjustments to the Scope of Work and/or corresponding adjustments to any firm fixed or maximum prices (collectively, "Adjustments") may be reflected by a written Special Amendment to the Scope of Work in this Amendment ("Special Amendment"). Nothing contained in this section shall be construed to authorize the County Engineer to alter, vary, or amend any of the terms or provisions of this Amendment, other than the aforementioned Adjustments. The County Engineer is authorized on behalf of the County to make Adjustments (as defined herein) and execute a corresponding Special Amendment without further action by Commissioners Court.

The Harris County Auditor ("County Auditor") is authorized, without further action by Commissioners Court, to certify additional funding for any Adjustments upon execution of a Special Amendment by the County Engineer.

5. FUNDING, COMPENSATION AND/OR BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 5.1 Payments/Compensation. For and in consideration of the work, products, services, licenses or deliverables provided under the Agreement and during the term of the Agreement, subject to the limitations in the Agreement, County shall pay Appraiser in accordance with the fee schedule and rates specified in the Agreement, including in the Attachments, up to the total maximum amount specifically appropriated, encumbered, and then certified as available by Harris County Auditor ("County Auditor").
- 5.2 Funding and Appropriations Limit. The following paragraph shall amend the corresponding funding paragraph(s) in the original Agreement and any subsequent amendment(s). County shall have no obligation to pay for and Appraiser shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by County Auditor. Any other provision notwithstanding, County shall never be liable to pay Appraiser any greater amount under the Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.
- 5.3 Auditor's Certification of Funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder.
- 5.4 Certification of Additional Funds. The amount of purchases under this Agreement will depend on the needs and requirements of County. For on-call agreements, additional funds are expected to be appropriated, encumbered, and certified on an as-needed basis up to the amount specified in this section. Therefore, the County Purchasing Agent and ROW are authorized to encumber and request certification of additional funds by the County Auditor up to a maximum amount of **ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00)**. ("Additional Funds") to pay and discharge liabilities that County may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and certification may be documented on a purchase order or on a form approved by the County Auditor. Appraiser should notify ROW when Appraiser has earned or received 90% of the available funds most recently certified by the County Auditor.

6. INSURANCE

- 6.1 Coverage and Limits. Appraiser shall procure, carry, and maintain appropriate liability insurance coverages in sufficient amounts and with adequate limits to cover potential damage, losses and liability that may arise directly or indirectly from work performed pursuant to this Agreement. In addition, Appraiser shall comply with any other insurance requirements specified in this Agreement, including in any Attachments. Upon written (including electronic) request, Appraiser shall provide proof of such liability insurance to ROW and /or the Harris County Purchasing Agent prior to the start of this Agreement. Appraiser shall require any subcontractors to also procure, carry, and maintain the insurance coverages in this section.

7. TERMINATION PROVISIONS

- 7.1 Determination of Material and Non-Material Breaches. County Engineer shall determine whether a breach of this Agreement by either Party is material or non-material. County Engineer's determination shall be final and binding alike on all Parties.

- 7.2 Non-Material Breaches. If either party refuses or fails to perform any of its non-material obligations in this Agreement, the other party may give written notice of the failure. If the breaching party fails or refuses to cure the failure of any non-material obligation in the notice within ten (10) calendar days after notice is given, the other party may terminate this Agreement immediately. HCED is authorized to give notice for County.
- 7.3 Material Breaches
- 7.3.1 Suspension. HCED may suspend this Agreement immediately for any material breach by giving a notice of suspension. As soon as the notice of suspension is received, Appraiser shall discontinue all services in connection with the performance of this Agreement. HCED is authorized to suspend on behalf of County.
- 7.3.2 Termination. The County may terminate this Agreement for a material breach at any time by notice in writing to the Appraiser .
- 7.4 No Waiver of Remedies. The provisions in this Section are not intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement. The right to terminate for material or non-material breaches is in addition to and not in lieu of any other remedies.
- 7.5 Termination Statement. As soon as practicable after receiving notice of termination, Appraiser must submit a statement or invoice to HCED that complies with the requirements in this Agreement. This statement or invoice must show in detail the unbilled/uninvoiced services performed for County under this Agreement to the date of termination. If the payments were to be made in lump sums and services were rendered after the last lump sum payment, the statement or invoice shall reflect the prorated amount due.
- 7.6 Return of Documents after Termination. If permitted by law and any established ethical requirements applicable to specific professionals, Appraiser shall promptly deliver to HCED all completed or partially-completed work-product, designs, data, information, and documents prepared under this Agreement on behalf of County. Within two (2) business days after the effective date of termination, Appraiser shall return to HCED all records, files, documents, notes and other items in Appraiser 's possession, if any, relating to any assignments or work that Appraiser has undertaken or been given under this Agreement, if permitted by law and any established ethical requirements applicable to specific professionals. Appraiser shall deliver to HCED all completed or partially-completed designs, drawings and specifications prepared under this Agreement, including the original electronic file format. Nothing in this section is intended to require Appraiser to surrender Appraiser 's own records to HCED after termination.
- 7.7 Agreement Transition. In the event the Agreement ends by either expiration or termination prior to the end of its Term, the County may elect to name a replacement appraiser. Upon such occurrence, Appraiser shall, at the request of the County, assist in the transition of Appraiser 's responsibilities under the Agreement. Appraiser acknowledges its responsibility to cooperate fully with the replacement appraiser and the County to ensure a smooth and timely transition. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

8. INDEMNIFICATION

- 8.1 No Waiver of Governmental Immunity. County does not waive any immunity or defense on behalf of itself, its employees or agents as a result of the execution of this Amendment.

9. MISCELLANEOUS

- 9.1 All the terms of the attached original Professional Services Agreement, and any Amendments, that are not in conflict with the terms of this Agreement Funding Amendment shall remain the same and shall apply to this Amendment.
- 9.2 Exhibit List. The following Attachment is a part of this Funding Amendment:
Exhibit A-3 – First and Second Amended Agreements and Original Professional Services Agreement
- 9.3 Electronic or Facsimile Signatures and Duplicate Originals. Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Funding Amendment may be conducted by electronic means. Pursuant to these statutes, this Funding Amendment may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Funding Amendment may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 9.4 Signatory Authorized to Execute Funding Amendment. The person executing this Funding Amendment on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Funding Amendment on behalf of the party.

HARRIS COUNTY

SCOTT STEPHENS & ASSOCIATES, INC.

By: _____

Ed Emmett
Harris County Judge

By: _____

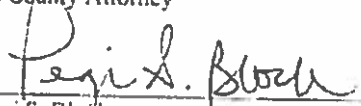
Scott P. Stephens MAI
President

APPROVED AS TO FORM:

ATTEST:

VINCE RYAN
Harris County Attorney

By: _____


Pegi S. Block
Assistant County Attorney
CAO File Number: 17GEN0820

By: _____

Secretary

HARRIS COUNTY
ENGINEERING DEPARTMENT
RIGHT OF WAY DIVISION

10555 Northwest Frwy., Suite 210
 Houston, Texas 77092
 (713) 274-3700

December 1, 2015

Honorable County Judge
 & Commissioners

SUBJECT: Recommendation by the Director of the Right of Way Division that Commissioners Court approve Orders authorizing the County Judge to execute the Agreement Funding Amendments (2nd Amended On-Call Real Estate Appraisal Services) for appraisal services in support of real estate transactions on behalf of Harris County

Dear Court Members:

It is recommended that Commissioners Court approve Orders authorizing the County Judge to execute Agreement Funding Amendments (2nd Amended On-Call Real Estate Appraisal Services) for appraisal services in support of real estate transactions on behalf of Harris County for:

Item	Agreement Funding Amendment (2nd Amended On-Call Real Estate Appraisal Services)
a.	Thomas N. Edmonds, Jr. MAI SRA d/b/a T N Edmonds & Associates
b.	Scott Stephens & Associates, Inc.

The funds for services will be encumbered at the time of each specific assignment and will be charged to the appropriate bond or general fund on a project-by-project basis.

The documents have been reviewed and approved by the County Attorney.

Sincerely,

Shannon C. Watson

Shannon C. Watson, P.E.
 Director, Right of Way Division

SCW/pls
 Attachments

Vote of the Court:

	Yes	No	Abstain
Judge Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Morman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Presented to Commissioner's Court

DEC 01 2015

APPROVE C/L
 Recorded Vol _____ Page _____

HARRIS COUNTY
 BUDGET MANAGEMENT
 DEPARTMENT

15 NOV 23 AM 9:00

3 0 ATF each

Lance - up7

Rec'd 3 org Asmb each

ROW

AGREEMENT FUNDING AMENDMENT
(2nd Amended On-Call Real Estate Appraisal Services)

1. PARTIES

- 1.1 Parties. The Parties to this Agreement Funding Amendment ("Funding Amendment") are Scott Stephens & Associates, Inc. ("APPRAISER") and Harris County ("COUNTY"), on behalf of its Harris County Engineering Department's Right-of-Way Division ("ROW").

2. PURPOSE

- 2.1 Agreement Funding Amendment Description. COUNTY and APPRAISER entered into a Professional Services Agreement (CAO File Number 14GEN1355) for APPRAISER to perform certain real estate appraisal services ("Agreement"). On or about October 27, 2015, the Parties amended the Agreement through an Agreement Funding Amendment (CAO File Number 15GEN1524) to allow COUNTY to continue to use the services of APPRAISER on federally funded projects, including civil works projects constructed by the U.S. Army Corp of Engineers and to increase the funding limit by \$100,000.00 ("Funding Amendment"). COUNTY now desires to amend the Agreement again to reform the funding provisions in Section 4. COUNTY does not intend to amend or increase the funding limits from those previously approved in the Funding Amendment.
- 2.2 Real Estate Appraisal Services. APPRAISER represents that APPRAISER is a licensed and certified real estate appraiser and shall, at all times pertinent to this Funding Amendment, maintain licensing and certification as a real estate appraiser under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN., ch. 1103.
- 2.3 Professional Services Procurement Act, Professional Services. The work performed under this Funding Amendment *cannot* be purchased on the basis of competitive bids since it is encompassed within Texas Government Code §2254.002(2).

3. SPECIFIC SCOPE OF WORK/SERVICES AND/OR DELIVERABLES

- 3.1 Specific work, products, services, licenses and/or deliverables. All the terms of the attached Agreement that are not in conflict with the terms of this Funding Amendment shall remain the same.

4. FUNDING, COMPENSATION AND/OR BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 4.1 Payments/Compensation. For and in consideration of the work, products, services, licenses or deliverables provided under the Agreement and during the term of the Agreement, subject to the limitations in the Agreement, COUNTY shall pay APPRAISER in accordance with the fee schedule and rates specified in the Agreement, including in the Attachments, up to the total maximum amount specifically appropriated, encumbered, and then certified as available by Harris County Auditor ("County Auditor").
- 4.2 Funding and Appropriations Limit. The following paragraph shall amend the corresponding funding paragraph(s) in the original Agreement and any subsequent amendment(s). COUNTY shall have no obligation to pay for and APPRAISER shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by County Auditor. COUNTY intends to initially appropriate, encumber, and certify as available by the County Auditor the total maximum sum of \$100.00 to pay and discharge any and all liabilities that COUNTY may incur arising out of this Agreement. Any other provision notwithstanding, COUNTY shall never be liable to pay APPRAISER any greater amount under the Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.

- 4.3 **Certification of Additional Funds.** The amount of purchases under this Agreement will depend on the needs and requirements of COUNTY. For on-call agreements, additional funds are expected to be appropriated, encumbered, and certified on an as-needed basis up to the amount specified in this section. Therefore, the County Purchasing Agent and ROW are authorized to encumber and request certification of additional funds by the County Auditor up to a maximum amount of \$100,000.00 ("Additional Funds") to pay and discharge liabilities that COUNTY may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and certification may be documented on a purchase order or on a form approved by the County Auditor. APPRAISER should notify ROW when APPRAISER has earned or received 90% of the available funds most recently certified by the County Auditor.

5. TERM OF THE FUNDING AMENDMENT

- 5.1 All the terms of the attached Agreement shall remain the same, other than the terms amended.

6. MISCELLANEOUS

- 6.1 **Exhibit List.** The following Attachment is a part of this Funding Amendment:

Exhibit A: General Scope of Services and Fee Schedule for Professional Real Estate Appraisal Services
- 6.2 **Electronic or Facsimile Signatures and Duplicate Originals.** Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Funding Amendment may be conducted by electronic means. Pursuant to these statutes, this Funding Amendment may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Funding Amendment may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 6.3 **Signatory Authorized to Execute Funding Amendment.** The person executing this Funding Amendment on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Funding Amendment on behalf of the party.

HARRIS COUNTY

By: Ed Emmett
Ed Emmett
County Judge

SCOTT STEPHENS & ASSOCIATES, INC.

By: Scott P. Stephens
Scott P. Stephens MAI
President

APPROVED AS TO FORM:

VINCE RYAN
Harris County Attorney

By: James M. Lemond
James M. Lemond
Assistant County Attorney
CAO File Number: 15GEN1688

AUDITOR'S CERTIFICATION

I certify that budgeted funds in the amount of \$ 100.00 will be available to pay Harris County's obligations under this Agreement.

Barbara J. Schott 12/16/15
Barbara J. Schott, CPA (date)
Harris County Auditor

Attachment A

20W

PROFESSIONAL SERVICES AGREEMENT
(On-Call Real Estate Appraisal Services)

1. PARTIES

- 1.1 Parties. The Parties to this Professional Services Agreement are Scott Stephens & Associates, Inc. (APPRAISER) and Harris County (COUNTY), on behalf of Harris County Public Infrastructure Department's Right of Way Division (ROW).

2. PURPOSE

- 2.1 Description. On January 22, 2008, the COUNTY and Scott Stephens, MAI entered into an agreement for Professional Services under which Scott Stephens, MAI was to perform tract appraisal services associated with the County's programs. The Parties amended the Agreement at least 3 times to increase to the amount of funds that could be certified as available for payments. Since that time, Scott Stephens, MAI has become the president of a newly formed entity, and County desires to continue to have available real estate appraisal services from Scott Stephens, MAI through the new entity. All services shall be performed by Scott Stephens, MAI or a licensed appraiser under the supervision of Scott Stephens, MAI. This Agreement will allow COUNTY to use the services of APPRAISER on federally funded projects, including civil works projects constructed by the U.S. Army Corps of Engineers.
- 2.2 Real Estate Appraising Services. Appraiser represents that Appraiser is a licensed and certified real estate appraiser and shall, at all times pertinent to this Agreement, maintain licensing and certification as a real estate appraiser under the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN., ch. 1103. COUNTY may have entered into a Project Cooperation Agreement with the United States of America, under which a civil works project will be constructed by the U.S. Army Corps of Engineers in cooperation with the COUNTY.
- 2.3 Professional Services. The work performed under this Agreement *cannot* be purchased on the basis of competitive bids since it is encompassed within Texas Government Code §2254.002(2).

3. APPRAISER'S REPRESENTATIONS

- 3.1 Applicable Expertise. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER (including APPRAISER's agents, employees, volunteers, and subcontractors as applicable) possess(es) the skills, qualifications, expertise, experience, education, knowledge, ability, and financial resources to perform all services and/or deliverables contemplated in this Agreement without significant disruption of those deliverables.
- 3.2 Permits and Licensing. APPRAISER represents that APPRAISER's agents, employees, volunteers, and subcontractors as applicable, possess all special certifications, licenses, inspections and permits required by law to carry out the Project or Program contemplated in this Agreement. APPRAISER's agents, employees, volunteers, and subcontractors as applicable, shall maintain appropriate accreditation and licensing, as required, through the State of Texas or other applicable licensing entities. Prior to the performance of any services under this Agreement, APPRAISER shall, *upon written (including electronic) request*, provide proof of valid licensure to ROW (including a listing of all licenses and expiration dates). Anything that may be in conflict or that may be construed to the contrary in the Exhibits to this Agreement notwithstanding, APPRAISER shall acquire all permits, licenses, approvals, documents, paperwork, and coordination necessary to complete the Project.
- 3.3 Authorized to Conduct Business. APPRAISER represents that APPRAISER is authorized to conduct the business and carry out the Project or Program contemplated in this Agreement. Prior to starting performance under this Agreement, APPRAISER shall, *upon written (including electronic) request*,

provide proof to ROW of the authority to do business in this state or at the location specified in this Agreement.

- 3.4 Special Qualifications. www.STEPHENSAPPRAISALS.COM
- 3.5 Conflict of Interest Certification. Pursuant to Chapter 176 of the Texas Local Government Code, APPRAISER certifies that APPRAISER has completed any required conflict of interest disclosures or questionnaires (see www.ethics.state.tx.us). If this certification is materially incomplete or inaccurate, APPRAISER acknowledges that COUNTY shall have the right to terminate this Agreement without prior notice. Pursuant to and to the extent required by federal funding requirements, APPRAISER certifies that APPRAISER has already submitted to ROW a written disclosure of any yearly campaign contribution of greater than \$5,000 to any elected official who could have otherwise voted on this Agreement so that the elected official could abstain from voting.
- 3.6 Disbursements to Persons with Outstanding Debt Prohibited. APPRAISER certifies, by execution of this Agreement, that neither APPRAISER nor any of APPRAISER's principals owe any debts as defined in Local Government Code Section 154.045 (including delinquent property taxes). APPRAISER understands that certain disbursements are prohibited and that COUNTY may apply any funds due to APPRAISER under this Agreement to any outstanding balance of certain debts pursuant to Section 154.045. If this certification is inaccurate, COUNTY may also terminate this Agreement. In addition, APPRAISER hereby assigns any payments under this Agreement to the County Tax Assessor Collector for the payment of any current or future delinquent taxes.
- 3.7 Delinquent Child Support Certification. APPRAISER understands APPRAISER's responsibility to verify whether the sole proprietor, partner, shareholder or owner with an ownership interest of at least 25% of APPRAISER is a child support obligor who is more than 30 days delinquent. Pursuant to Section 231.006 of the Texas Family Code (regarding State-funded grants), APPRAISER certifies that APPRAISER is not ineligible to receive the specified grant, loan, or payment. If this certification is inaccurate, COUNTY may terminate this Agreement and withhold payment.
- 3.8 Federal Program Payee Certification. Regarding Debarment, Suspension, Ineligibility, or Voluntary Exclusion for Covered Contracts, APPRAISER certifies, by execution of this Agreement, that neither APPRAISER nor any of APPRAISER's principals (a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this contract by any federal department or agency or by the State of Texas; (b) is presently under indictment for (or otherwise criminally or civilly charged by a governmental entity) or within a three-year period preceding this certification been convicted of or had an adverse civil judgment for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property (including Medicare or Medicaid fraud); nor (c) has within a three-year period preceding this certification had one or more public transactions (Federal, State, or local) terminated for cause or default. (The words 'covered contract,' 'debarred,' 'suspended,' 'participant,' 'persons,' 'principal,' 'proposal,' and 'voluntarily excluded,' as used in this certification, have meanings based upon materials in the Definitions and Coverage sections of federal rules implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145). By making this certification, APPRAISER agrees to the following terms: (A) The above certification is a material representation of fact upon which reliance was placed when this Agreement was entered into. If it is later determined that APPRAISER knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the federal government may pursue available remedies, including suspension and/or debarment. (B) APPRAISER shall provide immediate written notice to the person to which this certification is submitted if at any time APPRAISER learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances. (C) APPRAISER shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized

by the applicable federal department or agency. (D) APPRAISER, when submitting this certification, will include this contract clause, without modification, in all covered subcontracts/subawards and in solicitations for all covered subcontracts, in addition to obtaining from the subcontractor any separate applicable form certification (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts) that would be required for this Agreement. Any such form shall be maintained for a minimum of 3 years and 90 days following either the end of the federal fiscal year in which any work, products, services, licenses and/or deliverables were provided under this Agreement or the termination date of this Agreement. A subrecipient or contractor may rely upon certification of a subcontractor that is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless it knows that the certification is erroneous. A subrecipient or contractor must, at a minimum, obtain certifications from any covered subcontractor upon the initiation of each and upon each renewal. Nothing contained in all the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required. The knowledge and information of a subrecipient or contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. Except for subrecipients or contractors authorized under requirement (C) of these terms, if a subrecipient or contractor in a covered contract knowingly enters into a covered subcontract with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the federal government may pursue available remedies, including suspension and/or debarment. APPRAISER certifies that neither APPRAISER, nor any person providing work, products, services, licenses and/or deliverables is excluded, debarred, or suspended from any federal program, including Medicaid and Medicare, pursuant to 48 CFR Part 9. APPRAISER must provide written certification to ROW annually, unless requested more frequently. APPRAISER acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate. In addition, if APPRAISER becomes excluded, debarred, or suspended from any federal program, this Agreement may be terminated by ROW without prior notice, and APPRAISER is not entitled to receive payment for services from the date of such exclusion, debarment, or suspension. APPRAISER shall sign a separate applicable form certification (regarding debarment, suspension, ineligibility, and voluntary exclusion for certain covered contracts) if required by a funding entity.

- 3.9 Internet Access. APPRAISER has internet access, which will enable APPRAISER to access any secure online invoicing, reporting, or other web-based system designed for more efficient communication with ROW. As requested, APPRAISER shall submit required reports, invoices and related documents through an applicable secure internet site in a manner required to protect any confidential information submitted. APPRAISER shall review all instruction materials and/or attend all ROW provided training that is necessary for APPRAISER to properly utilize applicable web-based information systems.

4. SCOPE OF WORK/SERVICES AND DELIVERABLES

- 4.1 Specific Project, Program, work, products, services, licenses and/or deliverables. APPRAISER shall provide the work, products, services, licenses and/or deliverables required to be provided by APPRAISER and as set out in this Agreement and in any Attachment A and all other referenced attachments, which is/are attached and incorporated in this Agreement (all together referred to as the Project/Program). The provisions in this Agreement labeled 'Scope of Services' or 'Scope of Work' shall take precedence over anything conflicting in any attached proposal.
- 4.2 Written Authorization. From time to time during the course of this Agreement, ROW may deliver to APPRAISER written (including electronic) authorization (sometimes referred to as a *notice-to-proceed*, *task-order*, *work-order* or *job-order*) for providing certain work, products, services, licenses and/or deliverables contemplated in this Agreement, which APPRAISER shall then perform in accordance with this Agreement. COUNTY shall have no obligation to pay for and APPRAISER shall have no obligation to provide any work, services, products, or deliverables not rendered in accordance with a prior written authorization as described by this Section. APPRAISER shall complete the services called for by the calendar days and by the deadlines specified in this Agreement, including exhibits and written authorizations. For On-Call Agreements, ROW will first determine whether APPRAISER is still the

most highly qualified provider available before delivering to APPRAISER written (including electronic) authorization (sometimes referred to as a notice-to-proceed, task-order, work-order or job-order) for providing certain work, products, services, licenses and/or deliverables contemplated in this Agreement. APPRAISER clearly understands that COUNTY makes no guarantees or representations as to the minimum number of purchases or assignments (i.e., written authorizations) APPRAISER may receive under this Agreement. However, if APPRAISER receives no written authorizations within 11 months after the starting date of this Agreement, APPRAISER shall be entitled to \$100.

- 4.3 Federal Funding Obligations for On-Call Agreements. All other provisions notwithstanding, the obligations of APPRAISER in sections that include 'For Federal Funds' in the title shall not apply when the written authorization indicates that no federal funds will be used to fund the obligations of the COUNTY for the Project described in the written authorization.

5. ADDITIONAL AND SPECIAL REQUIREMENTS

- 5.1 Cooperation with Other Service Providers. COUNTY may engage the services of other service providers for work related to the work, products, services, licenses and/or deliverables in this Agreement. APPRAISER shall reasonably cooperate with such other service providers, and will not commit or permit any act that may interfere with the performance of work by any other service provider.
- 5.2 Non-Assignability. Unless otherwise authorized in this Agreement, neither party shall assign, in whole or in part, any duty or obligation of performance under this Agreement without the express written permission of the other parties, except that the express written permission of ROW shall be considered the permission of COUNTY. Such written permission will not be unreasonably withheld, unreasonably conditioned, or unreasonably delayed. However, with notice to ROW, APPRAISER may assign this Agreement to any affiliate of APPRAISER that controls, is controlled by, or is under common control with, APPRAISER if the assignee is at least as capable and qualified to provide the deliverables contemplated in this Agreement. This provision is not intended to restrict any assignment that is required by Section 9.406 of the Texas Business and Commerce Code.
- 5.3 Independent Contractor/Parties. COUNTY expects APPRAISER to meet the high standards set forth in this Agreement and looks to APPRAISER for results only. Unless otherwise required by law or regulation, COUNTY shall not direct the methods used to obtain those results, and APPRAISER shall perform the services as an independent contractor under the sole supervision, management, direction, and control of APPRAISER. As an independent contractor, APPRAISER will accept directions pertaining to the goals to be attained and the results to be achieved, as applicable, pursuant to this Agreement, but APPRAISER shall be solely responsible for the manner in which APPRAISER will perform the services under this Agreement. Any methods that might be discussed in any training sessions given by ROW are not mandatory unless specifically required in writing in this Agreement or by law. APPRAISER is not obligated to maintain any set, regular hours, nor to perform any set number of hours of service in fulfilling the obligations under this Agreement, unless otherwise specifically set out in this Agreement. This Agreement is not intended to create a joint enterprise, joint venture, business partnership, agency, franchise, or employment relationship, under Texas law. The personnel and staff of APPRAISER are independent contractors or employees of APPRAISER and shall not for any purposes be considered employees or agents of COUNTY. APPRAISER assumes full responsibility for the actions of any employees and agents while performing any services incident to this Agreement, and APPRAISER shall remain solely responsible for the supervision, daily direction and control, payment, if any, of salaries (including withholding of income and social security taxes), workers' compensation or disability benefits and like requirements and obligations.
- 5.4 Employment Eligibility. APPRAISER represents that the personnel and staff of APPRAISER performing any work pursuant to this Agreement are authorized to work in the United States, and APPRAISER has properly completed and retained all required Employment Eligibility Verification forms (Form I-9).

- 5.5 Ability to Perform. APPRAISER has the administrative, managerial, and financial capability (including funds sufficient to pay any non-Grant share of Project cost) to ensure proper planning, management and completion of the Project or Program described in this Agreement and administrative capacity and capabilities to carry out all duties and responsibilities under this Agreement.
- 5.6 Significant Organizational Change Notification. APPRAISER shall notify ROW immediately and in advance of any significant organizational change that could affect APPRAISER's ability to carry out all duties and responsibilities under this Agreement, including any change of APPRAISER's name or identity, ownership or control, or payee identification number. APPRAISER shall also provide written notice to ROW within 10 working days of the change. APPRAISER shall provide ownership information to ROW upon written (including electronic) request.
- 5.7 Adverse Actions Reporting. APPRAISER shall inform ROW, in writing, of any concluded investigation of APPRAISER (including APPRAISER's agents, employees, volunteers, and subcontractors, as applicable, providing work, products, services, licenses and/or deliverables under this Agreement) that is conducted by or on behalf of a government entity or other licensing or accreditation entity (including any state board of examiners) and whose outcome included public censure or other public sanction (or any pending investigations, administrative actions, or lawsuits, that relate to the work under this Agreement or that could adversely affect any performance or obligation in this Agreement). If at any time a license of APPRAISER's agents, employees, volunteers, and subcontractors as applicable, providing work, products, services, licenses and/or deliverables under this Agreement required to be maintained to fulfill the Commitments in this Agreement is suspended, revoked or out of compliance in Texas or any other state, this Agreement may be terminated immediately without prior notice, at the option of ROW, effective the date of the suspension, revocation or non-compliance. APPRAISER is not entitled to receive payment for services that were performed by APPRAISER while the required license was suspended or revoked. APPRAISER agrees to immediately inform ROW, in writing, of any adverse professional review action that is taken by a professional association or society and that is based on the professional competence or professional conduct of APPRAISER's agents, employees, volunteers, and subcontractors as applicable, providing work, products, services, licenses and/or deliverables under this Agreement. COUNTY may, at its sole option, terminate this Agreement, upon notice of such adverse professional review action.
- 5.8 Subcontracts. Unless otherwise explicitly set out in this Agreement, APPRAISER shall not enter into any subcontract for the work, products, services, licenses and/or deliverables under this Agreement unless prior to any written authorization to proceed with work done in part by the subcontractor, APPRAISER has provided to ROW the qualifications of the subcontractor to perform and meet the standards of this Agreement. APPRAISER shall comply with all Texas Administrative Code and Texas professional licensing agency requirements for choosing any professionally licensed subcontractor. Any subcontractor must meet all funding entity requirements as well as all requirements contained in this Agreement, which must be documented in a written agreement between APPRAISER and any subcontractor.
- 5.9 Professional Standards. Where specifically applicable standards are not explicitly set forth in this Agreement, as someone with expertise in the field, APPRAISER must provide the work, products, services, licenses and/or deliverables in accordance with generally accepted standards applicable to APPRAISER's profession or industry. APPRAISER shall perform the work in accordance with current Uniform Standards of Professional Appraisal Practices established by the applicable Appraisal Standards Board and shall use that degree of care and skill commensurate with the APPRAISER's profession. APPRAISER will abide by the contiguity of the ownership and unity of use guidelines. The appraisal reports shall be narrative and shall conform to all applicable requirements contained in the pamphlet entitled Uniform Appraisal Standards for Federal Land Acquisitions, Interagency Land Acquisition Conference, 1992; and those contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Title III of Public Law 91-646), as amended. In accordance with Public Law 91-646 (1970), as amended. In addition, the appraisal report shall be organized as set forth in Section B of 'Uniform Appraisal Standards for Federal Land Acquisitions.' The appraisal report shall contain all of the items set forth in Section B,

unless inclusion is inappropriate, inapplicable, or impossible, and the report so indicates. APPRAISER shall contact the owner and give the owner or designated representative an opportunity to accompany APPRAISER during the inspection of the owner's property. If this Agreement relates to a civil works project constructed by the U.S. Army Corps of Engineers, the appraisal report will likely be reviewed by a U.S. Army Corps of Engineers Review Appraiser, and the appraisal report shall include a digital copy with letter sized pages and shall include any clarifications and supplements required by the U.S. Army Corps of Engineers Review Appraiser. If requested by the Review Appraiser, APPRAISER shall discuss the appraisal reports with the Review Appraiser, clarify or supplement any appraisal reports as necessary, and cooperate with the review process. Any discussions, clarifications, and supplements required by the review process shall be performed by APPRAISER at no additional cost if not caused by changes in the project plans.

- 5.10 COUNTY Procedures. To effectively perform the services stated above, APPRAISER must become familiar with various procedures, policies, data collection systems, and other information of COUNTY. ROW will assist APPRAISER in obtaining the information. Unless otherwise required by law, APPRAISER agrees to keep any sensitive information confidential and not disclose it to outside parties without first obtaining COUNTY's written authorization.
- 5.11 Trade Secrets. In connection with the work, products, services, licenses, Project/Program, and/or deliverables provided under this Agreement, ROW may disclose to APPRAISER certain documents, data, and/or other information that is proprietary, confidential, or a trade secret (Trade Secrets). APPRAISER must not divulge or otherwise make unauthorized use of the Trade Secrets or other protected information, procedures, or policies of ROW, any former employee, contractor, client, customer, or consultant in the exercise of duties under this Agreement. Except to the extent authorized by a third party, neither Party shall copy, recreate, or use any proprietary information of a third party in the performance of services under this Agreement.
- 5.12 Work-For-Hire. For the purposes of assigning ownership, the work performed will be deemed, to the extent authorized by law, to have been done on a *works-made-for-hire* basis. In the event and to the extent that such works are determined not to constitute *works-made-for-hire* (as that term is understood in copyright law), APPRAISER hereby irrevocably assigns and transfers to COUNTY all right, title, and interest in such works, including, but not limited to, copyrights. COUNTY shall be the absolute and unqualified owner of all completed or partially completed mylar reproductions, drawings, preliminary layouts, electronic documents and drawings, record drawings, sketches, plans, cost estimates, inventions, designs, computer input/output information, computer applications, software, firmware, computations, and other documents (including the original electronic file format) prepared, pursuant to this Agreement, with the same force and effect as if prepared by COUNTY. APPRAISER may retain one set of reproducible copies for the APPRAISER's sole use in preparation of studies or reports for COUNTY only. APPRAISER is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, without the prior express written permission of ROW.
- 5.13 Nondisclosure and Confidentiality of Information. To the extent permitted by law, APPRAISER must keep confidential the contents of all discussions with local, state, and federal officials, as well as the contents of all local, state, and federal records and all other information obtained during performance under this Agreement. To fulfill APPRAISER's obligations under this Agreement, APPRAISER may be provided access to information, systems, operations, or procedures that are security sensitive or have been identified as confidential. This confidential information may include information from one of the government entity funding sources, such as a Texas or federal agency. APPRAISER and the person executing this Agreement on behalf of APPRAISER acknowledge that (a) access to this information (whether electronic, written or oral, formal or informal) is provided solely to APPRAISER for the purpose of discharging the duties in this Agreement, (b) premature or unauthorized disclosure of this information can irreparably harm the interests of COUNTY and may constitute a violation of state and/or federal law, and (c) the information may represent confidential or proprietary information, the release of which may be restricted or prohibited by

law. Therefore, APPRAISER must (1) not access any information without express written authorization of ROW; (2) not copy, recreate, or use any information or document obtained in connection with this Agreement other than for the performance of this Agreement; (3) to the extent permitted by law, keep confidential the contents of all discussions with county, state, and federal officials, as well as the contents of all county, state, and federal records and all other information obtained during performance under this Agreement, unless authorized in writing by appropriate ROW officials; (4) except to the extent required by law, or necessary for the performance of this Agreement, not release, disclose, reveal, communicate, impart or divulge any information or any summary or synopsis of the information in any manner or any form whatsoever to outside parties without the express written consent of ROW; (5) take all steps necessary to protect confidential information from disclosure to third parties and have a system in effect that must include a method to ensure the confidentiality of records and other information relating to any person according to applicable federal and state law, rules and regulations; (6) not reproduce, copy, or disseminate such confidential information except to those who need to know such information and are obligated to maintain its confidentiality, including APPRAISER's partners, principals, representatives or employees as necessary to fulfill obligations under this Agreement; (7) notify ROW immediately of all requests for confidential information; and (8) immediately report to ROW all unauthorized disclosures or uses of confidential information.

5.14 Public Comment and Public Information Act. To the extent permitted by law, all contact with the news media, citizens of COUNTY, the State of Texas or other governmental agencies concerning the Project will be the responsibility of ROW. In the event APPRAISER is subject to the Texas Public Information Act, upon receipt of a written request for any information by APPRAISER developed in the performance of services under this Agreement, APPRAISER shall provide written notice to ROW of the request along with a copy of the request, and give ROW the opportunity to respond to the request prior to any release by APPRAISER. Unless required by law, under no circumstances shall APPRAISER release any material or information developed in the performance of services under this Agreement without the express prior written permission of ROW.

5.15 Applicable Laws. APPRAISER shall comply (and assure compliance by APPRAISER's agents, employees, volunteers, and subcontractors as applicable, providing work, products, services, licenses and/or deliverables under this Agreement) with all applicable state, federal, and local laws, ordinances, regulations, executive orders, rules, directives, standards, guidelines, and instructions relating to the work to be performed, including those that prohibit discrimination in Federally assisted programs or activities, such as the Civil Rights Acts (including Section 601), the Age Discrimination Act, the Religious Freedom Restoration Act, the Omnibus Crime Control and Safe Streets Acts, the Victims of Crime Act, the Americans with Disabilities Act, the Drug Abuse Office and Treatment Act of 1972 (relating to nondiscrimination on the basis of drug abuse), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (relating to nondiscrimination on the basis of alcohol abuse or alcoholism), §§523 and 527 of the Public Health Service Act of 1912 (relating to confidentiality of alcohol and drug abuse patient records), the Rehabilitation Act, Title IX of the Education Amendments of 1972 (prohibiting gender discrimination), Juvenile Justice and Delinquency Prevention Act – JJDP (anti-discrimination), and the United States Internal Revenue Code requirements for independent contractors, and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations, as well as Army Regulation 600-7, entitled . To permit effective enforcement of such laws, APPRAISER agrees to compile data, maintain records, and submit reports as required. This assurance is binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this assurance under this Agreement. The person whose signature appears on this Agreement is authorized to sign this assurance on the behalf of APPRAISER. APPRAISER shall immediately bring to COUNTY's attention any conflicts between any applicable state, federal, and local laws, ordinances, regulations, executive orders, rules, directives, standards, guidelines, and instructions relating to the work to be performed. If laws or regulations change and affect any provision of this Agreement, this Agreement shall be deemed amended to conform to those changes in the laws or regulations on the date such laws or regulations become effective. If any such changes (that occur after the effective

date of this Agreement and that APPRAISER should not reasonably have anticipated) require significant changes or additions to the scope of work that were not contemplated by the Parties, the Parties shall negotiate in good faith for the purpose of creating reasonable and equitable written modifications to this Agreement.

- 5.16 Public Integrity/Conflicts Certification for Federal Funds. Public officers are prohibited from financially benefiting directly or indirectly in the performance of this Agreement. APPRAISER shall not knowingly permit members or employees of ROW or other public officials connected (who exercise any function or responsibility in the review or approval of the undertaking or carrying out of this Agreement or who participate in any decision-making process or gain inside information relating to this Agreement that affects their personal or pecuniary interest) from obtaining (1) a financial interest from Agreement activity, (2) any interest in any contract, subcontract, or agreement with respect to this Agreement, or (3) any proceeds from this Agreement, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. APPRAISER shall not induce, by any means, any person employed in the completion of work under this Agreement to give up any part of the compensation to which he or she is entitled. Further, APPRAISER shall not at any time accept or receive any form of payment, fee, compensation, or benefit, including referral or finder's fees, goods, or services offered by any third party, for a recommendation or referral of a Program client to a third party (such as a health care provider). No member of or delegate to the Congress of the United States and no employee of the Department of Justice is entitled to any share or benefit from this Agreement. This certification/representation applies to this Agreement and is a material representation of fact upon which COUNTY relied when entering into this transaction. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER will comply with the requirements of this provision. APPRAISER shall require the language of this provision be included in all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered sub-recipients certify and disclose accordingly. The person whose signature appears on this Agreement is authorized to sign this certification/representation on the behalf of APPRAISER. This certification/representation shall be binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this certification/representation under this Agreement.
- 5.17 Lobbying Certification for Federal Funds. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 or 32, U.S. Code (entitled 'Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions' – also known as the Byrd Anti-Lobbying Amendment), which generally prohibits recipients of Federal grants and cooperative agreements from using Federal appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific grant or cooperative agreement. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. APPRAISER certifies, to the best of APPRAISER's knowledge or belief, that no federally appropriated funds have been paid or will be paid, by or on behalf of APPRAISER, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. In addition, APPRAISER shall not use any Federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of the funding entity. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federally funded contract, subcontract, or cooperative agreement, APPRAISER shall complete and submit Standard Form-LLL (Disclosure Form to Report Lobbying), in accordance with its instructions, if or when it becomes applicable. APPRAISER shall comply

(and enforce compliance by APPRAISER's agents, employees, volunteers, subcontractors, and subrecipients as applicable, providing work, products, services, licenses and/or deliverables under this Agreement) with this provision. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER will comply with the requirements of this provision. APPRAISER shall require the language of this provision be included in all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered sub-recipients certify and disclose accordingly. The person whose signature appears on this Agreement is authorized to sign this certification/representation on the behalf of APPRAISER. This certification/representation applies to this Agreement and is a material representation of fact upon which COUNTY relied when entering into this transaction. This certification/representation shall be binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this certification/representation under this Agreement. Any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- 5.18 Environmental Tobacco Smoke Certification for Federal Funds. If the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee, Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18. Public Law 103-227 also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify that APPRAISER will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. APPRAISER shall comply (and enforce compliance by APPRAISER's agents, employees, volunteers, subcontractors, and subrecipients as applicable, providing work, products, services, licenses and/or deliverables under this Agreement) with this provision. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER will comply with the requirements of this provision. APPRAISER shall require the language of this provision be included in all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered sub-recipients certify and disclose accordingly. The person whose signature appears on this Agreement is authorized to sign this certification/representation on the behalf of APPRAISER. This certification/representation applies to this Agreement and is a material representation of fact upon which COUNTY relied when entering into this transaction. This certification/representation shall be binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this certification/representation under this Agreement.

- 5.19 Drug Free Workplace Certification for Federal Funds. If the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee, as applicable, profit or non-profit agencies or organizations receiving state or Federal grant funds must certify, on an annual basis, their compliance with the requirements of the Drug Free-Workplace Act of 1988. Employees are specifically prohibited from manufacturing, distributing, possessing, purchasing, and using illegal drugs or controlled substances in the workplace or in any other facility, location or transport in which the employee is required to be present in order to perform his or her job function. APPRAISER shall comply (and enforce compliance by APPRAISER's agents, employees, volunteers, subcontractors, and subrecipients as applicable, providing work, products, services, licenses and/or deliverables under this

Agreement) with this provision. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER will comply with the requirements of this provision. APPRAISER shall require the language of this provision be included in all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered sub-recipients certify and disclose accordingly. The person whose signature appears on this Agreement is authorized to sign this certification/representation on the behalf of APPRAISER. This certification/representation applies to this Agreement and is a material representation of fact upon which COUNTY relied when entering into this transaction. This certification/representation shall be binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this certification/representation under this Agreement.

- 5.20 Trafficking Victims Protection Act for Federal Funds. APPRAISER shall comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). During the applicable time period, APPRAISER (as well as any of APPRAISER's agents, employees, volunteers, and subcontractors performing work under this Agreement) shall not engage in trafficking in persons, procure a commercial sex act, or use forced labor. APPRAISER shall inform ROW immediately of any information it receives from any source alleging a violation of this section. APPRAISER shall comply (and enforce compliance by APPRAISER's agents, employees, volunteers, subcontractors, and subrecipients as applicable, providing work, products, services, licenses and/or deliverables under this Agreement) with this provision. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER will comply with the requirements of this provision. APPRAISER shall require the language of this provision be included in all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered sub-recipients certify and disclose accordingly. The person whose signature appears on this Agreement is authorized to sign this certification/representation on the behalf of APPRAISER. This certification/representation applies to this Agreement and is a material representation of fact upon which COUNTY relied when entering into this transaction. This certification/representation shall be binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this certification/representation under this Agreement.

- 5.21 Non-Federal Employees Whistleblower Protection Act for Federal Funds. APPRAISER shall comply with and be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908. APPRAISER shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights, remedies, and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation. During the applicable time period, APPRAISER (as well as any of APPRAISER's agents, employees, volunteers, and subcontractors performing work under this Agreement) shall not retaliate against employees (including discharge, demotion, or other discrimination as a reprisal) who discloses information that the employee reasonably believes is evidence of (a) gross mismanagement of a Federal contract or grant, gross waste of, or abuse of authority related to, the use of a Federal contract or grant; (b) a violation of a rule or regulation related to a federal agency contract or grant; or (c) a substantial and specific danger to public health or safety danger or a violation of law, rule, or regulation related to a Federal contract or grant. APPRAISER shall inform ROW immediately of any information it receives from any source alleging a violation of this section. APPRAISER shall comply (and enforce compliance by APPRAISER's agents, employees, volunteers, subcontractors, and subrecipients as applicable, providing work, products, services, licenses and/or deliverables under this Agreement) with this provision. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify and represent that APPRAISER will comply with the requirements of this provision. APPRAISER shall require the language of this provision be included in all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered sub-recipients certify and disclose accordingly. The person whose signature appears on this Agreement is authorized to sign this

certification/representation on the behalf of APPRAISER. This certification/representation applies to this Agreement and is a material representation of fact upon which COUNTY relied when entering into this transaction. This certification/representation shall be binding on APPRAISER (as well as successors, transferees, and assignees, if any) as long as they receive or retain federal or state funds. APPRAISER agrees that any government agency or entity may seek judicial enforcement of this certification/representation under this Agreement.

- 5.22 Clean Air and Water Pollution Control Acts for Federal Funds. APPRAISER shall comply (and require contracts of amounts in excess of \$100,000 to contain a provision that requires the contractor to agree to comply) with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 5.23 False Claims Act Reporting for Federal Funds. APPRAISER must promptly refer to the DOJ OIG any credible evidence that a any person has either 1) submitted a false claim for grant funds as defined under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict-of-interest, bribery, gratuity, or similar misconduct involving grant funds. APPRAISER shall comply with all applicable federal anti-fraud and anti-corruption statutes, e.g., 18 U.S.C.A. 286 (regarding conspiracy to defraud the Federal Government with Respect to Claims); the False Claims Act (31 U.S.C.A. 3729 et seq.); 18 U.S.C.A. 287 relating to False, Fictitious and Fraudulent Claims; 18 U.S.C.A. 245, as amended, relating to Federally Protected Activities; 18 U.S.C.A. 1001, as amended, regarding General Statements or Entries; the Program Fraud Civil Remedies Act (31 U.S.C.A. 3801 et seq.); the Federal Claims Collection Act of 1966 (31 U.S.C.A. 3701, 3711, 3716 to 3718), as amended by the Derby Collection Act of 1982; the Meritorious Claims Act (31 U.S.C.A. 3702); the Tucker Act (28 U.S.C.A. 1346, 1491 and 2501 et seq.); the Wunderlich Act (41 U.S.C.A. 321-322); the Anti-Deficiency Act (31 U.S.C.A. 1341 et seq.); and Section 208(a) of the Intergovernmental Personnel Act of 1970.
- 5.24 Funding Accountability and Transparency Act Reporting for Federal Funds. APPRAISER shall promptly submit all information to ROW that COUNTY is required to submit to the funding entity, including APPRAISER employee compensation information.
- 5.25 Funding Entity Requirements. APPRAISER shall comply with all *applicable* funding entity and grant policies, procedures, requirements, terms and conditions (including those found in any Notice of Award and the underlying contract between the funding entity and COUNTY, which shall control over this Agreement), and guidelines, including those applicable to federal (available at <http://www.whitehouse.gov/OMB/circulars/>) and state funds, in the performance of this Agreement, including but not limited to the following, which language APPRAISER shall require be included in the award documents for all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements):
- 5.25.1. Uniform Grant Management Standards (UGMS) adopted pursuant to the Uniform Grant and Contract Management Act of 1981, Chapter 783, Texas Government Code, and the applicable administrative code regulations, such as 40 T.A.C. §732.240 - 256;
- 5.25.2. the standard financial management conditions and uniform assurances, pursuant to UGMS and Chapter 2105, Texas Government Code, which are applicable to all grants and grant agreements executed between state agencies, local governments and other affected entities;
- 5.25.3. Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State and Local Governments and Other Affected Entities) (see 2 CFR Part 225); the Common Rule of OMB Circular A-102 (State Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments) (see 44 CFR Part 13); OMB Circular A-133 (Audits of States, Local governments, and Non-Profit Organizations); OMB Circular A-110

(Uniform Administrative Requirements for Grants and Other agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations) (see 44 CFR Part 13); Office of Justice Programs (OJP) Financial Regulations; Environmental Considerations at 44 CFR Part 10; Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations at 48 CFR 31.2;

- 5.25.4. as applicable, Office of Justice Programs--Office for Civil Rights Limited English Proficiency guidelines and the Equal Employment Opportunity Program requirements, including E.O. 11246, 'Equal Employment Opportunity,' as amended by E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulations at 41 CFR part 60, 'Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.' (<http://www.ojp.usdoj.gov/about/ocr/assistance.html>);
- 5.25.5. as applicable, OMB Circulars A-122 (Cost Principles for Private Non-Profit organizations) (see 2 CFR Part 230), A-21 (Cost Principles for Educational Institutions) (see 2 CFR Part 220), and Executive Order 12372 governing the review and coordination of Federally Assisted Programs and Projects.
- 5.26 Insurance. APPRAISER shall procure, carry, and maintain appropriate liability insurance coverages in sufficient amounts and with adequate limits to cover potential damage, losses and liability that may arise directly or indirectly from work performed pursuant to this Agreement,. In addition, APPRAISER shall comply with any other insurance requirements specified in this Agreement, including in any Attachments. Upon written (including electronic) request, APPRAISER shall provide proof of such liability insurance to ROW and /or the Harris County Purchasing Agent prior to the start of this Agreement. APPRAISER shall require any subcontractors to also procure, carry, and maintain the insurance coverages in this section.
- 5.27 Records Retention and Management for Federal Funds. APPRAISER shall maintain complete and accurate records necessary to fulfill the obligations in this Agreement, including a copy of this Agreement. APPRAISER shall maintain and make available for inspection the Records for a minimum of 3 years and 90 days following either the end of the federal fiscal year in which any obligations were performed under this Agreement or the termination date of this Agreement (or longer if necessary to resolve any litigation, claims, financial management review, or audit findings). COUNTY or designee may (but shall not be required to) assist APPRAISER to establish a set of records that complies with the requirements of the grant or the government agency providing the funds for this Agreement and may periodically inspect such records to ensure that they are properly kept.
- 5.28 Accounting Records for Federal Funds. As per any referenced funding-entity requirements, APPRAISER is required to account separately for the receipt and expenditure of state and federal funds received from COUNTY. APPRAISER (including APPRAISER's subcontractors as applicable) shall not co-mingle grant funds and shall maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records shall contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. APPRAISER (including APPRAISER's subcontractors as applicable) shall follow the provisions of Title 45 Code of Federal Regulations (CFR) Part 74 regarding the title to any equipment bought under this Agreement with federal funds allocated to APPRAISER. Equipment purchased with grant funds must be used for the purpose of the grant and as approved by the grant funder. An inventory report should be kept on file containing all equipment purchased with any grant funds during the grant period. This report must agree with the approved grant budget and any final Financial Status Report. Unless otherwise agreed in writing, any equipment in excess of \$5,000 that is purchased by APPRAISER with funds provided under this Agreement must be delivered by APPRAISER to COUNTY at the end of the contract period if requested. At ROW's option, such equipment may be returned to APPRAISER for continued use in providing the services described in this Agreement if APPRAISER is awarded a subsequent contract. In addition, upon Project completion, APPRAISER may request ownership be transferred to APPRAISER if

authorized by the funding entity requirements referenced in this Agreement, and such request will not be unreasonably withheld.

- 5.29 Performance Monitoring and Document Inspection. Pursuant to the Texas Human Resources Code and/or other requirements, COUNTY or its designee is responsible for monitoring APPRAISER and exercising reasonable care to enforce all terms and conditions of any applicable grant or of the state or federal agency providing any funds for this Agreement. COUNTY is responsible for collecting and/or maintaining all appropriate information, records, papers, reports, and other documents regarding any aspect of this Agreement, including services performed. If permitted by law and any established ethical requirements applicable to specific professionals, APPRAISER shall furnish such information upon written (including electronic) request by ROW and APPRAISER shall make all records, books, documents, and papers that directly pertain to and involve transactions relating to this Agreement (the Records) available for inspection, audit, examination, and copying (and all APPRAISER's agents, employees, volunteers, and subcontractors, as applicable, providing work, products, services, licenses and/or deliverables under this Agreement available for interviewing) by ROW, the State of Texas and its agencies, the United States and its agencies, including the U.S. Department of Justice, Department of Education, Comptroller General, Department of Health and Human Services (HHS), SAMHSA, or their duly authorized representatives. APPRAISER agrees to cooperate fully in the monitoring process. APPRAISER must permit COUNTY or its designee to inspect the performance of APPRAISER for the purpose of evaluating the operations, deliverables, and/or services under this Agreement. COUNTY or its designee may conduct record evaluations, unscheduled site visitations, observations of programs or work in operation, interviews, and the administration of questionnaires to the staff and clients of APPRAISER. In addition, APPRAISER agrees to cooperate in any pre-monitoring activities requested by regulatory government agencies (such as the Texas Juvenile Justice Department, Texas Education Agency, Texas Department of Family and Protective Services), which may include, but are not limited to, completion of self-assessment checklists, questionnaires, or other documentation supplied by the government agency. If permitted by law and any established ethical requirements applicable to specific professionals, APPRAISER agrees to submit, in a timely manner, photocopies of any files or records of any applicable facility or program operated by or under the authority of COUNTY that may be requested by ROW or other government agencies as a part of the monitoring process.
- 5.30 Audit of APPRAISER and Sub-contractors by State Auditor for State Funding. Pursuant to Section 2262.003 of the Texas Government Code (pertaining to receipt of state funds) and/or other requirements, APPRAISER understands that acceptance of state funds under this Agreement acts as an acknowledgment and an acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. APPRAISER shall cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing complete access to all records requested pertaining to this Agreement. APPRAISER shall ensure that this clause (concerning the authority of the State Auditor to audit funds received indirectly by subcontractors through APPRAISER and the requirement to fully cooperate) is included in any subcontract that APPRAISER can award under this Agreement.
- 5.31 Notice of Funding Source. In accordance with any applicable funding-entity requirements, APPRAISER will, if applicable, place prominent notices acknowledging such funding in any literature describing work, products, services, licenses and/or deliverables covered by this Agreement. If applicable, this notice must appear in any annual financial report, conference agenda, promotional materials, and web site describing the work, products, services, licenses and/or deliverables.
- 5.32 Prior Agreements. Any prior agreements between the Parties for the same services from Scott Stephens, MAI shall be terminated when this Agreement starts. The signatory for APPRAISER represents that the signatory has legal authority to cancel any previous contract on behalf of Scott Stephens, MAI. Services provided under any prior agreement must be billed within 45 days from the start date of this Agreement. After the County Auditor approves the release of any remaining funds encumbered and certified for the prior agreement, payment for any services pursuant to a prior valid agreement with Scott Stephens, MAI

shall be paid from funds encumbered for this Agreement with APPRAISER at the applicable rates specified in the prior agreement.

6. AMOUNT OF COMPENSATION AND BASIS FOR PAYMENT, METHOD, AND LIMITATIONS

- 6.1. Payments/Compensation. For and in consideration of the work, products, services, licenses and/or deliverables provided under this Agreement and during the term of this Agreement, subject to the limitations in this Agreement, COUNTY shall pay APPRAISER in accordance with the fee schedule and rates listed in this Agreement, including in the Attachments up to the total maximum amount certified as available by the County Auditor. The payments that COUNTY shall make to APPRAISER, will likely include firm fixed prices for specific tasks specified in this Agreement, including attachments. Unless stated otherwise, all firm fixed prices may be billed on a percentage completed basis but shall be paid only the percentage that is confirmed as completed by ROW. However, unless clearly and explicitly indicated as a firm fixed price task in this Agreement, the specified task shall be billed and paid at any applicable hourly or *cost-plus* rates specified in this Agreement, and the amounts indicated for each specified task shall be considered the maximum allowable charge by APPRAISER to perform that specified task (such as amounts listed under a heading entitled 'Estimated Costs'), unless otherwise clearly and explicitly stated otherwise in this Agreement. **IN ADDITION, ALL HOURLY-BILLED SERVICES MUST BE REASONABLE AND NECESSARY.** Payments to APPRAISER shall not exceed the unit prices and rates specified in this Agreement and shall only be made pursuant to a proper written authorization under this Agreement.
- 6.2. Funding and Appropriations Limit. COUNTY shall have no obligation to pay for and APPRAISER shall have no obligation to provide any work, products, services, licenses and/or deliverables until sufficient funds are certified by the County Auditor. COUNTY intends to initially appropriate, encumber, and certify as available by the County Auditor the total maximum sum of \$ 100.00 to pay and discharge any and all liabilities that COUNTY may incur arising out of this Agreement. Any other provision notwithstanding, COUNTY shall never be liable to pay APPRAISER any greater amount under this Agreement than is specifically appropriated, encumbered, and then certified as available by the County Auditor.
- 6.3. Additional Certification of Funds Authorized. The amount of purchases under this Agreement will depend on the needs and requirements of COUNTY. For *on-call* agreements, additional funds are expected to be appropriated, encumbered, and certified on an *as-needed* basis up to the amount specified in this section. Therefore, the County Purchasing Agent and ROW are authorized to encumber and request certification of additional funds by the County Auditor up to an additional amount of \$99,900.00 to pay and discharge liabilities that COUNTY may incur under this Agreement without amending or supplementing this Agreement, and such encumbrance and certification may be documented on a purchase order or on a form approved by the County Auditor. APPRAISER should notify ROW when APPRAISER has earned or received 90% of the available funds most recently certified by the County Auditor.
- 6.4. Prior On-Call Agreements. Any prior *on-call* agreements for the same services between the Parties shall be terminated when this Agreement starts. Services provided under any such prior agreement must be billed within 45 days from the start date of this Agreement. After the County Auditor approves the release of any remaining funds encumbered and certified for the prior agreement and sufficient funds are encumbered and certified for this Agreement, payment for any services pursuant to a prior valid agreement between the Parties shall be paid from funds encumbered for this Agreement at the applicable rates specified in the prior agreement.
- 6.5. Funding Out/Non-Appropriation. It is further understood that pursuant to Local Government Code Chapter 111, when and if the work, products, services, licenses and/or deliverables and charges provided for herein are equal to or exceed the amounts certified available, APPRAISER is authorized to terminate some or all APPRAISER's work, products, services, licenses and/or deliverables under this Agreement unless the County Auditor certifies that additional funds are available, in which event, APPRAISER agrees to continue

to provide the products, services and/or deliverables to the extent funds are available. When all the funds certified by the County Auditor, together with any additional funds thereafter certified, are expended, COUNTY has no further liability, and the sole and exclusive remedy of APPRAISER is to immediately terminate this Agreement unless the County Auditor certifies additional funds. The payment obligations created by this Agreement are also conditioned upon the availability of any State and Federal funds that are appropriated or allocated for the payments set out in this Agreement. COUNTY shall not be liable for damages as a result of interruption of payments. There is no right of subrogation, contribution, or indemnification against any funding entity for any payment obligation or duty owed pursuant to this Agreement.

- 6.6. Billing Statements/Invoices. Unless otherwise indicated in this Agreement, no later than the 10th day after the end of each calendar month within the term of this Agreement, APPRAISER shall submit to ROW a billing statement or invoice for all *unpaid* products, services and/or deliverables, along with any applicable rates, including the applicable firm fixed price and any applicable percentage completed for specific tasks/deliverables as specified in this Agreement. The data in the billing statement or invoice must be in a format designated by ROW and include any purchase order number. An authorized agent of APPRAISER must certify and swear under penalty of perjury that the work was performed, the work was properly authorized in writing by ROW, and all information contained in the statement or invoice is true and correct. All products, services and/or deliverables billed must be rendered during this Agreement term. APPRAISER shall submit to ROW billing statements or invoices limited to work done and products, services and/or deliverables provided pursuant to this Agreement, and APPRAISER shall not include in such billing statements or invoices any work, products, services, licenses and/or deliverables provided, required to be performed, or billed under or pursuant to any other agreements with COUNTY. ROW will review each statement or invoice and approve it with any modifications ROW deems appropriate after mutual consultation and agreement with APPRAISER. ROW will then forward the approved statement or invoice to the County Auditor for payment. COUNTY will pay APPRAISER the proper amounts due and owing under this Agreement within 30 days of receipt of the approved statement or invoice to extent allowed by law. Each statement or invoice must include a monthly inventory of work, products, services, licenses and/or deliverables provided during the billing period and any other details ROW reasonably requests for verification purposes, which might include:
- a. The date(s) work, products, services, licenses and/or deliverables were provided;
 - b. Meetings and lists of attendees, if applicable;
 - c. Detailed description of the work, products, services, licenses and/or deliverables provided;
 - d. The total amount billed, and any other details of the work, hours, or services as may be reasonably requested by the County Auditor for verification purposes;
 - e. If applicable, the case number for which services were performed;
- 6.7. Overpayments. Within 10 days after request by ROW, APPRAISER must reimburse to COUNTY all funds paid by COUNTY to APPRAISER that any funding entity or auditor determines have been improperly paid to, or expended by, APPRAISER. COUNTY may withhold, suspend, or reduce any and all payments due to APPRAISER until any overpayments are reimbursed.
- 6.8. Costs of Substitute Services. If APPRAISER fails to perform any of its obligations under the Agreement and COUNTY procures substitute services upon such terms as are appropriate, COUNTY shall deduct the reasonable costs for such services from any payments owed to APPRAISER under this or other agreements. APPRAISER must reimburse to COUNTY, within thirty (30) days after request by COUNTY, any additional costs of such substitute services beyond what has already been deducted by COUNTY. COUNTY may also withhold, suspend, or reduce payments due to APPRAISER until the costs of such substitute services are reimbursed to COUNTY by APPRAISER. This provision is *not* intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement and is in addition to and not in lieu of any other remedies.

- 6.9. Billing Audits. COUNTY and its designee shall have the right to examine and audit all of APPRAISER's billings/invoices and all of APPRAISER's backup and support data for those billings/invoices. Upon ROW's request, APPRAISER agrees to make such data and supporting documentation available to the County Auditor or designee in Harris County, Texas. APPRAISER shall maintain complete and accurate records necessary to fulfill any obligations in this Agreement, including a copy of this Agreement, including detailed time records identifying each person performing services that were billed on an hourly basis, the corresponding dates of the services, the applicable firm fixed price and the percentage completed for specific tasks as specified in this Agreement, any applicable hourly or *cost-plus* rates, the total amount billed for each person as applicable, and the total amount billed for all persons as applicable. APPRAISER shall maintain and make available for inspection (electronically or in Harris County during regular business hours) the Records for a minimum of 3 years and 90 days following either the end of the federal fiscal year in which any obligations were performed under this Agreement or the termination date of this Agreement (or longer if necessary to resolve any litigation, claims, financial management review, or audit findings). All payments made by COUNTY are subject to re-evaluation and refund or withholding of future payments conditioned on the results of the audit.
- 6.10. County Auditor to Make Final Decision. The decision of the Harris County Auditor as to the amount owed shall be final if there is any dispute between COUNTY and APPRAISER as to the amount owed to APPRAISER for any monthly statement or invoice submitted by APPRAISER. COUNTY agrees to notify APPRAISER of any questionable item and is authorized to withhold payment until all questions are resolved either by final audit or by agreement of the parties.

7. TERM OF THE AGREEMENT

- 7.1 Time Period. The initial time period for performance (term) of this Agreement shall start October 28, 2014 and end October 27, 2016.
- 7.2 Automatic Renewal. Unless either Party gives written notice to the other Party (at least 30 days prior to the expiration date of the currently effective Agreement) of the Party's intent to terminate the Agreement, this Agreement will automatically renew annually by extending the termination date one year from the prior term's end date, upon the same terms and conditions as are provided for in this Agreement. The renewal shall not become effective until COUNTY has funded any financial obligation for the renewal, as evidenced in writing, such as a certification of funds contained on a purchase order.

8. TERMINATION PROVISIONS

- 8.1 Termination for Non-Material Breaches. If either party refuses or fails to perform any of its obligations in this Agreement, the other party may, but is not required to, give written notice of the failure, regardless of whether the failure to perform would rise to the level of a *default* or *material* breach of the Agreement. If the party fails or refuses to cure the failure of any obligation in the notice within 10 days after notice is given, the other party may terminate this Agreement immediately. ROW is authorized to give notice for COUNTY. **SUSPENSION OF AGREEMENT for Material Breaches:** ROW may suspend this Agreement immediately for any material breach by including a notice of suspension in the 10 day notice referenced above. ROW is authorized to suspend on behalf of COUNTY. As soon as the notice of suspension is received (or if there was no notice of suspension, upon the termination's effective date), APPRAISER shall discontinue all services in connection with the performance of this Agreement. For a material breach of contract or default, the parties retain the right to terminate this Agreement immediately without prior notice or an opportunity to cure. This provision is *not* intended to waive or preclude any other remedies the parties may otherwise have in law, equity, or elsewhere in this Agreement, and the right to terminate for a non-material breach is in addition to and not in lieu of any other remedies.
- 8.2 Termination Without Cause. At any time prior to the expiration of this Agreement, any Party may terminate this Agreement without cause by giving 30 days written notice to the other parties, specifying the effective end date. ROW is authorized to give notice for COUNTY. Upon the termination's effective date,

APPRaiser shall discontinue all services and any authorized subcontracts in connection with the performance of this Agreement.

- 8.3 Termination Statement. As soon as practicable after receiving notice of termination, APPRAISER must submit a statement or invoice to ROW that complies with the requirements in this Agreement. This statement or invoice must show in detail the *unbilled/uninvoiced* services performed for COUNTY under this Agreement to the date of termination. If the payments were to be made in lump sums and services were rendered after the last lump sum payment, the statement or invoice shall reflect the prorated amount due.
- 8.4 Return of Documents after Termination. If permitted by law and any established ethical requirements applicable to specific professionals, APPRAISER shall promptly deliver to ROW all completed or partially completed work-product, designs, data, information, and documents prepared under this Agreement on behalf of COUNTY. Within 2 business days after the effective date of termination, APPRAISER shall return to ROW all records, files, documents, notes and other items in APPRAISER's possession, if any, relating to any assignments or work that APPRAISER has undertaken or been given under this Agreement if permitted by law and any established ethical requirements applicable to specific professionals. APPRAISER shall deliver to ROW all completed or partially completed designs, drawings and specifications prepared under this Agreement, including the original electronic file format. Nothing in this section is intended to require APPRAISER to surrender APPRAISER's own records to ROW after termination.

9. INDEMNIFICATION

- 9.1 No Waiver of Governmental Immunity. COUNTY does not waive any immunity or defense on behalf of itself, its employees or agents as a result of the execution of this Agreement.
- 9.2 General Indemnity. To the extent allowed by law, APPRAISER agrees to indemnify and hold harmless COUNTY, ROW, their officers, employees, and agents from liability, losses, expenses, demands, reasonable attorneys' fees, and claims for bodily injury (including death) and property damage to the extent caused by the negligent acts or omissions of APPRAISER (including APPRAISER's agents, employees, volunteers, and subcontractors provided by APPRAISER in the performance of the services defined in this Agreement). APPRAISER shall also save COUNTY harmless from and against any and all expenses, including reasonable attorneys' fees that might be incurred by the COUNTY, in litigation or otherwise resisting such claims or liabilities.

10. MISCELLANEOUS

- 10.1 Notices to APPRAISER. Any notice required or permitted to be given by COUNTY or ROW to APPRAISER may be given by hand delivery, facsimile, email, or certified United States Mail, postage prepaid, return receipt requested, addressed to:

Scott P. Stephens MAI
President
Scott Stephens & Associates, Inc.
12723 WOODFOREST BLVD
HOUSTON TX 77015-2737
Fax: 713-451-3300
Email: sstephens@stephensappraisals.com

- 10.2 Notices to COUNTY. Any notice required or permitted to be given by APPRAISER to COUNTY may be given by hand delivery, facsimile, email, or certified United States Mail, postage or fee prepaid, return receipt requested, addressed to:

Shannon C. Watson, P.E.
Director, Right-of-Way Division
Harris County Public Infrastructure Department's Right of Way Division
10555 Northwest Frwy., Suite 210
Houston TX 77092
Fax: 713-683-0201
Email: shannon.watson@hcpid.org

- 10.3 Receipt of Notice. Such notice shall be considered given and complete upon successful electronic transmission or upon deposit in the United States Mail.
- 10.4 Change of Address. Either party may change its address for notice by giving the other party 10 days prior written notice specifying the new address.
- 10.5 Force Majeure. Neither Party will be liable for any failure or delay in performing its obligations under this Agreement if such failure or delay is due to any cause beyond the reasonable control of such Party if such cause is generally recognized under Texas law as constituting impossible conditions. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other in writing with proof of receipt within 10 business days of the existence of such *Force Majeure* event or otherwise waive this right as a defense.
- 10.6 E-Mail Addresses. APPRAISER affirmatively consents to the disclosure of e-mail addresses that are provided to COUNTY or ROW. This consent is intended to comply with the requirements of the Texas Public Information Act, Texas Government Code § 552.137, and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by APPRAISER and any agents acting on APPRAISER's behalf and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.
- 10.7 Entire Agreement (Merger). This Agreement contains the entire agreement and understanding between the parties relating to the rights granted to and the obligations of the parties. All prior negotiations, discussions, correspondence and previous understandings are superseded by this Agreement. Any oral representation or modification concerning this Agreement shall be of no force or effect.
- 10.8 No Oral Modifications. Unless otherwise explicitly stated in this Agreement, this Agreement cannot be changed except by a written subsequent modification authorized by all parties.
- 10.9 Inducements. In making the award of this contract, COUNTY relied on APPRAISER's assurances and representations made in this Agreement. Any false assurances and representations by APPRAISER shall be immediate grounds for termination of this Agreement without prior notice at the option of COUNTY.
- 10.10 Contract Construction. The titles assigned to the various Articles of this Agreement are for convenience. Titles shall not be considered restrictive of the subject matter of any Article or other part of this Agreement. Likewise, the provisions of purpose in this Agreement are intended to be a general introduction and are not intended to expand the scope of the Parties obligations or alter the plain meaning of the terms and conditions in this Agreement.
- 10.11 Ambiguities. Ambiguities, if any, shall not be interpreted against the drafter of this Agreement.
- 10.12 No Waiver of Default. Any waiver by either party of one or more defaults on the part of the other party in the performance of obligations under this Agreement is not a waiver of any subsequent defaults.
- 10.13 Remedies Cumulative. Unless otherwise specified elsewhere in this Agreement, the rights and remedies of COUNTY are not exclusive, but are cumulative of all rights and remedies that exist now or in the future.

- 10.14 No Third Party Beneficiaries. Unless explicitly provided in this Agreement, there is no intent by either party to create or establish third party beneficiary status or rights in any third party. No such third party shall have any right to enforce any right or enjoy any benefit created or established under this Agreement.
- 10.15 Non-Exclusivity. Unless explicitly provided in this Agreement, nothing shall prevent either Party from contracting with other parties for the provision of the same or similar services or deliverables that are contemplated by this Agreement.
- 10.16 Limited Personal Liability. Nothing in this Agreement shall be construed as creating any personal liability on the part of any officer, director, employee, or agent of COUNTY.
- 10.17 Dispute Resolution Process. The Parties will meet and confer in good faith to work together to resolve problems or disputes that may arise. In the event a dispute arises between the parties involving the provisions or interpretation of any term or condition of the Agreement, and if both parties desire to attempt to resolve the dispute prior to termination or expiration of the Agreement, or withholding payments, then the parties may refer the issue to a mutually agreeable dispute resolution process.
- 10.18 Savings/Severability Clause. If any provision, section, subsection, paragraph, sentence, clause or phrase of this Agreement, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement, including indemnification provisions, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.
- 10.19 Survivability Clause. If any provision, section, subsection, paragraph, sentence, clause or phrase of this Agreement, or the application of same to any person or set of circumstances, is held to be invalid, void, or unenforceable by a court of competent jurisdiction, that part of this Agreement shall be reformed, if reasonably possible, to comply with the applicable provisions of law. In any event, the remaining provisions shall continue in full force and effect provided that the unenforceable or invalid provision is not material to the overall purpose and operation of this Agreement. If necessary in order to make this Agreement valid and enforceable, the Parties shall meet to confer upon an amendment or modification.
- 10.20 Time is of the Essence. Time is of the essence with respect to APPRAISER's performance under this Agreement, and APPRAISER shall perform all services diligently until completed.
- 10.21 Choice of Law. This Agreement shall be construed according to the laws of the State of Texas without giving effect to its conflict of laws provisions. Venue lies only in Harris County as per Texas Civil Practice and Remedies Code Sec. 15.015, and any alternative dispute resolution, suit, action, claim, or proceeding with respect to or arising out of this Agreement must be brought solely in the courts or locations that are situated in the State of Texas, County of Harris. Both parties irrevocably waive any claim that any proceeding brought in Harris County has been brought in an inconvenient forum.
- 10.22 Exhibit List. The following attachments are a part of this Agreement.
- Attachment A - General Scope of Services and Fee Schedule for Professional Real Estate Appraisal Services
- 10.23 Information Certification. APPRAISER and the person executing this Agreement on behalf of APPRAISER certify that all information submitted pursuant to this Agreement is true, complete, accurate, and correct to the best of APPRAISER's knowledge. APPRAISER and the person executing this Agreement on behalf of APPRAISER understand that deliberately misrepresenting or withholding information, or making any false, fictitious, or fraudulent statements or claims violates this Agreement and may result in prosecution under applicable statutes as well as criminal, civil, or administrative penalties.

- 10.24 Tax Exemption. Pursuant to Texas Tax Code §151.309, as a political subdivision, COUNTY claims exemption from sales and use taxes and will provide exemption certificates upon written request. COUNTY shall not be liable to reimburse or pay any personal property taxes, charges, or fees assessed against APPRAISER.
- 10.25 Electronic or Facsimile Signatures and Duplicate Originals. Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Agreement may be conducted by electronic means. Pursuant to these statutes, this Agreement may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Agreement may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.
- 10.26 Signatory Authorized to Execute Agreement. The person executing this Agreement on behalf of each Party represents that he or she is duly authorized by the policy of the party's governing body to legally obligate and execute this Agreement on behalf of the party.

HARRIS COUNTY

By: Ed Emmett ^{OC} 9 2014

Ed Emmett (date)
County Judge

SCOTT STEPHENS & ASSOCIATES, INC.

By: Scott P. Stephens

Scott P. Stephens M.A. (date)
President

APPROVED AS TO FORM:

VINCE RYAN

Harris County Attorney

By: Clyde Raymond Leuchtag

Clyde Raymond Leuchtag
Assistant County Attorney

AUDITOR'S CERTIFICATION

I certify that budgeted funds in the amount of \$ 100.00 will be available to pay Harris County's obligations under this Agreement.

Barbara J. Schott 11/19/14
Barbara J. Schott, CPA (date)
Harris County Auditor

Attachment A

GENERAL SCOPE OF SERVICES

1. The basic services to be performed under this Agreement are the following:
 - A. Review and execute all assignment letters from the COUNTY concerning each Requested Service.
 - B. Initiate contact with landowner and invite the landowner or a designated representative to be present during site visit.
 - C. Make site reconnaissance and assessment visits as directed by the Director or his designee.
 - D. Establish and maintain files, records, and procedures that are usual and customary for the performance of the agreed services and that comply with the Uniform Standards of Professional Practices.
 - E. Provide periodic reports, as determined by the COUNTY, to record activities and justify billing amounts.
 - F. Provide appraisal reports that comply with all of the guidelines of the Uniform Standards of Professional Practices as established by the Appraisal Foundation.
 - G. Provide consultation services to the COUNTY as requested.
2. Additional Services, which are to be provided when specifically authorized and directed by the COUNTY, include:
 - A. Provide expert court testimony, when necessary.
 - B. Review and evaluate appraisals submitted by other appraisers, when requested.
 - C. Upgrade appraisal reports, when requested.
 - D. Update all reports, when requested.
 - E. Provide unusual and specialized services in connection with real estate transactions associated with the COUNTY's engineering and maintenance programs, when requested.
 - F. Provide additional services determined by the Director or his designee to be within the capability of the appraiser, not specifically covered by the above outline, but essential to the COUNTY's mission.

FEE SCHEDULE FOR PROFESSIONAL REAL ESTATE APPRAISAL SERVICES

Upon the completion of review and acceptance by any federal funding entity Review Appraiser (such as the Army Corp of Engineers), the usual & customary assignments (Services as described in Attachment A, Part 1) shall be compensated in lump sum amounts and hourly as indicated:

Activity & Rate

1. \$2,800/report For Services performed in producing an Appraisal Report without extensive research.
2. \$1,500/report For Services performed in producing an Update Appraisal Report:
3. \$4,500/report For Services performed in producing an Appraisal Report requiring extensive research.
4. \$750/report For Services performed in producing a Residential Appraisal Report.
5. \$150/hour For Consultation Services.

The Director shall determine whether reports require extensive research, and his/her determination shall be final and binding.

Additional Services, as directed in Attachment A, Part 2, including Special Assignments, which shall be compensated, as indicated, within the amount limits shown:

Activity & Rate

1. \$150/hour Court Testimony.
2. \$1,500/report Update Appraisal Report, without extensive research.
3. \$150/hour Update Appraisal Report, with extensive research.
4. \$1,000/report Appraisal Review
5. \$150/hour Specialized Services.

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING
THE AGREEMENT FUNDING AMENDMENT BETWEEN
HARRIS COUNTY AND
SCOTT STEPHENS & ASSOCIATES, INC.
FOR SEVENTH AMENDMENT TO ON-CALL REAL ESTATE APPRAISAL
SERVICES**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The meeting chair announced that the motion had duly and lawfully carried, and this order was duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that:

1. The Harris County Judge is authorized to execute the attached Agreement Funding Amendment between **Harris County** and **Scott Stephens & Associates, Inc.** for Seventh Amendment to On-Call Real Estate Appraisal Services. The attached Agreement Funding Amendment, including any addendums, may be executed with an electronic or facsimile signature. The County Purchasing Agent and Harris County Engineering Department's Real Property Division are authorized to encumber and request certification of additional funds by the County Auditor up to an additional amount of **\$250,000.00** without having to amend or supplement the attached original Agreement.
2. The Harris County Engineering Department's Real Property Division and all other Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.