

*BOC Approved  
November 1, 2016*

**THE STATE OF TEXAS**

**CONTRACT FOR APPRAISAL SERVICES**

**COUNTY OF TRAVIS**

**THIS AGREEMENT** is made by and between NEWTON COUNTY, GEORGIA, a political subdivision of the State of Georgia, acting by and through its governing authority, the County Board of Commissioners, located for purposes of this Agreement at 1113 Usher Street, Suite 203, Covington, GA 30014 (hereinafter referred to as the "Client"), and AUSTIN VALUATION CONSULTANTS, LTD., having a place of business at 3811 Bee Cave Road, Suite 210, Austin, Texas, 78746-6459 (Appraiser).

For and in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged. Client and Appraiser agree as follows:

- I. Appraiser agrees to consult and provide appraisal opinions concerning the Newton County Landfill and adjacent 427.44 acres.

The parties agree that Appraiser is not and shall not be required to violate any moral or legal code of ethics imposed upon appraisers by the laws of the State of Texas, the State of Georgia or the United States of America, in rendering his opinion as an expert witness. This limitation includes any attempted requirement to have Appraiser be an advocate for anything other than his opinion of the value of the property examined and analyzed. The Client agrees to notify the appraiser of any Daubert motions, Robinson motions, motions in limine, or other pre-trial motions made by other parties or persons to restrict, exclude or in any way limit testimony of the appraiser in the underlying legal matter. Further, the client agrees to obtaining the appraiser's advance approval (for accuracy) of the relevant portions of any and all answers to interrogatories, motions, expert designations or other documents which summarize appraiser's qualifications, methodology, opinion(s) and/or anticipated testimony and agree to promptly notify the appraiser of when and where he may be requested to appear to testify.

- II. The scope of the appraisal assignment involves:

1. Appraisal of the business enterprise value of the Newton County Landfill.
2. Appraisal of the adjacent 427.44 acres "as is;" i.e., with no permit for a Municipal Solid Waste Landfill.
3. Appraisal of the adjacent 427.44 acres under the hypothetical condition that it has a permit for a Municipal Solid Waste Landfill.

The effective dates of value are contemporary (on the date of site visit). The interests to be appraised are fee simple.

- III.** The intended user of the appraisal report is the client, other attorneys in the firm, and relevant persons in Newton County government.

The intended use is for internal decision-making, negotiations with the East Georgia Land and Development Company as well as litigation regarding the adjacent acreage.

This report will be prepared in conformity with and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute, and the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of the Appraisal Foundation, Texas Real Estate Commission and the Georgia Real Estate Commission and Appraisers Board.

- V.** Appraiser estimates that the foregoing assignment will be completed within 90 days of receiving the signed contract and retainer. Client recognizes that this date is Appraiser's best estimate of the completion date and is not a guarantee of completion by the said date.

- VI.** Appraiser agrees to provide Client with one electronic copy and one printed copy of any written appraisal reports. The Client will notify the appraisers in advance of completion if more printed copies are required.

**VII. A. Professional Fee for Preparation of Appraisal**

Client agrees to pay Appraiser, as compensation for the professional appraisal services to be rendered hereunder, the following fee:

- (1)** The fee for this assignment will be \$375 per hour for Mr. Robinson and Mr. Lucas, and \$95 per hour for administrative time, plus expenses (travel expenses, mileage, lodging, copies of deeds, plat maps, if incurred) which will be billed in addition to the fee.
- (2)** The fee for the appraisal and report will be in the range of \$45,000 to \$50,000. The fee is based on the scope of work as discussed between the appraiser and client and listed under Item II. The estimated fee could change if the scope of work is adjusted.

This fee does not include additional time for expert testimony that may be required. Any and all expert witness time will be invoiced at \$375 per hour for appraisers, and \$95 per hour for administrative time, if required.

- (3)** If the assignment is canceled prior to completion, the charge will be a computed fee based upon the actual time expended on the assignment by Appraiser at the hourly rates of \$375 per hour for appraisers, and \$95 per hour for administrative time.

(4) Appraiser and Client agree that the Client is solely responsible for the payment of charges for the services rendered under this agreement. Invoices will be delivered to Client and payment will be made to the appraiser within thirty days of the date of the invoice.

**B. Retainer Amount and Balance of Professional Fee**

Said professional fee shall be due and payable as follows: A retainer in the amount of **\$15,000** is due on the signing of this Agreement by the Client. The balance of Professional Fee and any out-of-pocket expenses itemized in the invoice are due and payable on or before ten (10) days from the date of invoice.

FOR OFFICE USE ONLY: DATE RETAINER RECEIVED \_\_\_\_\_, 2015.

**C. Out-of-Pocket Expenses**

In addition to the fee to be paid to Appraiser, Client shall reimburse Appraiser for any of the following out-of-pocket expenses incurred by Appraiser in connection with this assignment: out-of-state temporary practice licenses, travel expenses, furnishing of copies of the appraisal report in addition to those specified in Paragraph VI, photographs and required remedial or technical studies, local market data/research assistance, if applicable. Such expenses will be billed at our direct cost to the Client and expenses will be reimbursed within two weeks of receipt of request for reimbursement.

**D. Delinquency Charge**

If any payment due Appraiser under this Agreement is not paid when due, such payment shall bear interest at the rate of 18% per annum or the maximum allowed under state law in the State of Texas commencing ten (10) days after such payment is due, provided, however, that in no event shall such rate of interest exceed the maximum rate permitted by law. In the event that any payment due Appraiser is not paid when due, Client shall pay all expenses of collection, including, but not limited to, court costs and reasonable attorney's fees.

**VIII.** Upon request, Client shall also provide Appraiser with such other materials with respect to the assignment that are in the possession of Client, including plans, and specifications for any improvements to the property, surveys, soil tests, percolation tests, air and water pollution tests, past real property appraisals, as well as any other information reasonably requested by Appraiser. It is agreed that Appraiser may, but need not, assume the accuracy of all material submitted by Client. Client acknowledges and agrees that the efficacy of the appraisal depends on the validity and accuracy of the information delivered to Appraiser for the purpose of examining the property, therefore, Client agrees to use its best efforts to assure that all of the information delivered to Appraiser is correct and accurate. Appraiser is not responsible for the accuracy of any appraisal based upon inaccurate information furnished to it by Client.

- IX.** All statements of fact in the appraisal report which are used as the basis of Appraiser's analyses, opinions and conclusions will be true and correct to the best of Appraiser's knowledge and belief. Appraiser does not have responsibility for legal matters, questions of survey, opinion of title, soil or sub-soil conditions, engineering or other technical matters. Any sketches prepared by Appraiser and contained in the appraisal report will be included solely to aid the user of the report in visualizing the property and its location.

Each finding, prediction, assumption or conclusion contained in the appraisal report will be Appraiser's personal opinion and will not be an assurance that an event will or will not occur. Appraiser may assume that there are no conditions relating to the real estate, sub-soil or structures located on the real estate which would affect Appraiser's analyses, opinions or conclusions with respect to the real estate that are not apparent. Client agrees and acknowledges that it is not the Appraiser's responsibility, legally or ethically, to advocate the Client's allegations of damages, but rather to advocate the opinions developed by Appraiser in this engagement and will be Appraiser's own independent opinions regardless of whether those opinions favor the Client's position.

- X.** The data gathered in the appraisal process (except data furnished by Client) and the appraisal report prepared pursuant to this Agreement will remain the property of the Appraiser. With respect to the data provided by Client, Appraiser agrees that it will not distribute, disclose or disseminate any confidential information furnished to Appraiser by Client. Appraiser is however, authorized by Client to disclose all or any portion of the appraisal report and the related appraisal data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable Appraiser to comply with the By-laws and Regulations of such Institute and/or the requirements of the State of Texas Appraisal Licensing Board but only in response (demand) by either regulatory body in connection to a Profession Standards or Ethics inquiry or complaint.
- XI.** This agreement represents the entire Agreement between Client and Appraiser and supersedes all prior negotiations, representations, or agreements, either written or oral.
- XII.** This agreement is binding upon the heirs, successors and assigns of Client and Appraiser.
- XIII.** This agreement shall be governed by the laws of the State of Texas.
- XIV.** In the event any provision of this agreement shall be determined to be void or unenforceable by any court of competent jurisdiction, then such determination shall not affect any other provision of this agreement and all such other provisions shall remain in full force and effect. Client agrees that the limit of professional liability of the appraiser in this assignment is the fee charged for this appraisal service.

**XV.** Any controversy, dispute, or claim between Client or Counsel on the one hand and Expert on the other hand or whatever nature arising out of, in connection with, or in relation to the interpretation, performance or breach of this agreement, including any claim based on contract, tort, or statute, shall be resolved at the request of any party to this agreement, by final and binding arbitration before a single arbitrator in Austin, Texas, administered by and in accordance with the then existing commercial arbitration rules of the American Arbitration Association, and judgment upon any award rendered by the arbitrator may be entered by any state or federal court having jurisdiction thereof. Any such arbitration shall take place exclusively in Austin, Texas. The arbitrator shall render his or her decision on the basis of Texas law, and shall render his or her decision in writing, setting forth in reasonable detail the conclusions and legal and factual basis of such decision. The prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in enforcing this agreement through arbitration or otherwise and reasonable attorneys' fees and costs incurred in appealing or enforcing any judgment entered by the arbitrator in any court having jurisdiction. The parties shall not be liable to each other for any consequential, incidental, special or punitive damages, nor shall Expert be liable for direct compensatory damages in excess of the fees actually received by Expert for the performance of services under its retention agreement.

**IN WITNESS HEREOF**, each of the parties hereto has dated and executed this Agreement and caused it to be delivered to the other party hereto.

**AUSTIN VALUATION CONSULTANTS, LTD.**



SCOTT R. LUCAS, MAI, on behalf of  
AUSTIN VALUATION CONSULTANTS, LTD.  
(A Texas Limited Partnership)

BY: J & R ROBINSON INTERESTS, L.L.C.  
(A Texas Limited Liability Company)  
It's General Partner

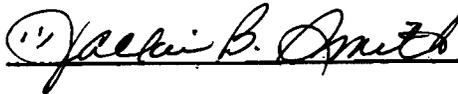
**NEWTON COUNTY, GEORGIA**



By: Keith Ellis, Chair

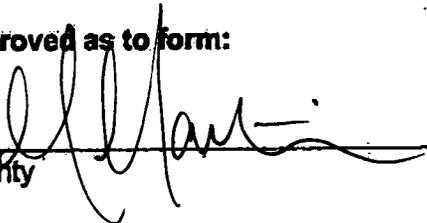
[COUNTY SEAL]

**Attest:**

Signature: 

Print Name: Jackie Smith  
Title: County Clerk

**Approved as to form:**

  
County