Brown Misc. 07MISC01 Trending (4)

# PROFESSIONAL SERVICES AGREEMENT

This SERVICE AGREEMENT (the "AGREEMENT") is made and entered into as of this 11th day of February 2005 by and between Nexus Group, Inc. ("Nexus") and the Jackson Township Trustee and ~~Board of Commissioners of Brown County, Indiana ("Client")~~.

## RECITALS:

Whereas, Nexus operates a tax research and consulting firm based in Indiana and has certain skills and expertise in regards to the services to be performed;

Whereas, Client desires to retain the benefit of Nexus's service, knowledge, skills and expertise in certain specified areas of Indiana property taxation; and

Whereas, Client and Nexus are desirous of documenting the terms and conditions of said relationship;

The foregoing recitals are adopted by the parties as being true and accurate statements, and are hereby incorporated as binding representations of this Agreement. Now, therefore, in consideration of the premises and the mutual covenants, agreements and representations herein contained, and other good and adequate consideration, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. **Engagement**. Client hereby engages Nexus as a service provider, consultant and advisor to the Client with respect to the matters identified in Section 2 hereof and in Attachment 1 to this AGREEMENT for the compensation as set forth in Section 3 hereof and for the term as set forth in Section 5 hereof. Nexus hereby accepts this engagement by Client as a service provider, consultant and advisor with respect to such matters and for such compensation and term.

2. **Services to be Performed**. During the term of this AGREEMENT, Nexus shall provide verbal and/or written reports, communications, data analysis and other related and necessary information ("Services") to the Client in general regards to annual trending as described in 50 IAC 21 regarding the 2005 real property assessed values, entering sales disclosures into a database and determining or trending of land values. **Note that this AGREEMENT does not cover any duties of the County Assessor, (eg. a ratio study).** These Services and deliverables are further outlined and detailed in Attachment 1 to this AGREEMENT. Client and Nexus may alter the scope and nature of the Services upon mutual agreement. Nexus shall work closely with Client to ensure that Nexus completes those Services necessary so that Client meets all statutory deadlines. Nexus agrees to work in conjunction with the Client and other service providers, to integrate and transfer information so as to provide information to the Client in a uniform format. All work product of Nexus

shall meet the requirements as established by the Department of Local Government Finance consistent with Regulation 17.

3. **Compensation**. In consideration for the Services as described in Section 2 hereof Nexus shall receive the sum of $5,100.00; invoiced, due and payable upon mutual satisfaction of both parties that all contract deliverables have been met. Nexus shall submit an invoice or claim for payment to Client on the above-indicated dates for a total of four billings. Invoices are due within 45 days, with an additional grace period of 15 days. Payments outstanding after such grace period will be assessed an interest charge of one percent (1%) per month.

4. **On-Site Presentations and/or Defense**. Nexus agrees to provide public presentations, defend and/or support any aspect of these Services for an additional fee of $750 per day. If desired by the Client, Nexus agrees to make a public presentation at mutually agreeable dates and times in Brown County to inform and educate the public as to predicted impacts of the reassessment process and/or the Services detailed hereunder as performed by Nexus. Nexus shall work with the Client to obtain adequate media coverage for these presentations. At no additional expense, Nexus agrees to provide the Client with exemplary documentation for information defense as provided in the Services so that Client may better comment on petitions or other matters.

5. **Term, Termination and Suspension**. The term of this AGREEMENT shall commence on the earliest data noted above and shall continue indefinitely until all Services have been provided. Nexus may cancel this AGREEMENT with thirty days notice and for good and just cause. Client may cancel this AGREEMENT at any time with thirty (30) days notice. In the event of cancellation by either party, any and all outstanding payments shall likewise be suspended. Further, Client may suspend the provision of Services at his sole discretion, making the payment of any and all outstanding compensation due and payable in Section 3 likewise suspended. At the resumption of Services, Nexus and Client would make a good faith effort to amend this Agreement concerning due dates for deliverables and a compensation schedule.

6. **Confidentiality**. Nexus shall maintain the confidentiality of all Client records, data, information, correspondence of any type and similar. All information related to these Services shall be provided to the Client only, unless otherwise directed by Client, or as so directed by a Court of Law.

7. **Independent Contractor**. Nexus shall at all times be an independent contractor hereunder, rather than a coverture, agent, employee or representative of the Client. Client hereby acknowledges and agrees that

Nexus may engage directly or indirectly in other business and ventures not otherwise proscribed hereby.

8. **Proscribed Activities**. Nexus or its shareholders shall not file any type of real or personal property appeal on behalf of any person(s), corporations or business entities in regards to property owned, held or possessed in Brown County, Indiana.

9. **Enforcement**. The provisions of this AGREEMENT shall be enforceable notwithstanding the existence of any claim by either Client or Nexus against the other. Each of the parties of this AGREEMENT shall have the right to specific performance and injunctive relief to enforce the terms of this AGREEMENT.

10. **Governing Law**. The AGREEMENT shall be construed in accordance with the laws of the state of Indiana.

11. **Waiver of Breach**. The waiver of any breach of any provision of this Agreement or failure to enforce any provision hereof shall not operate or be construed as a waiver of any subsequent breach by either party.

12. **Entirety**. This AGREEMENT represents the complete and final agreement of the parties with respect to delivery of Services and shall control over any other statement, representation or agreement. Any changes to the Agreement must be in writing, signed by both parties.

13. **Survival**. The provisions of this AGREEMENT relating to confidentiality shall survive the termination of the AGREEMENT.

14. **Captions**. The captions of this AGREEMENT are for convenience of reference only and shall not be deemed to define or limit any of the terms hereof.

15. **Binding Effect**. This AGREEMENT shall inure to the benefit of both parties and their successors and assigns shall be binding upon both parties.

16. **Indemnification**. Both Client and Nexus agrees to indemnify, defend and hold harmless the other from and against any and all costs, expenses and liability, including, but not limited to, reasonable attorney fees, which it may incur in the event of a breach by the other party of its obligations hereunder or arising from acts or omissions of the other party in performing its obligations hereunder.

17. **Contract Representative**. The Client may designate a Contract Representative to serve as the primary contact person for notifications and receipt and/or coordination of Services. The Nexus Contract Representative

shall be Frank S. Kelly, 4225 N. Illinois Street, Indianapolis, IN 46208 (317-925-7783).

18. **Notices**. All written notices shall be directed, if to Nexus, at: 4225 N. Illinois St., Indianapolis, IN 46208; and if to Client, at: Brown County Auditor's Office, P.O. Box 37, Nashville, IN 47448.

19. **Responsibilities**. The final determination of assessed value and true tax value is and shall remain the responsibility of the Client.

20. **Non-Discrimination**. Pursuant to IC 22-9-1-10, Nexus and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to the individual's hire, tenure, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract.

21. **Delays**. Whenever Nexus or the Client have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, they shall within fifteen (15) days provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay.

22. **Subcontracting**. Nexus must obtain the approval of the Client before subcontracting all or any portion of this Contract. This limitation shall not apply to the purchase of standard commercial supplies or raw materials. If subcontractors are used, Nexus is responsible for contract performance, compliance with terms and conditions of this Contract, and the requirements of federal and state equal opportunity and affirmative action statutes, rules and regulations.

23. **Force Majeure**. Neither party shall be liable for delays or performance failures resulting from and caused by acts beyond the party's control. Such acts shall include acts of God, acts of war, epidemics, communication line failures, power failures, earthquakes, and other similar disasters. In every case the delays must be beyond the control and without the fault or negligence of the non-performing party.

24. **Maintaining A Drug-Free Workplace**. Nexus hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Contract a drug-free workplace, and that it will give written notice to the Client within ten (10) days after receiving actual notice that an employee of the Professional Appraiser has been convicted of a criminal drug violation occurring in Professional Appraiser's workplace. It is further expressly

agreed that the failure of Nexus to in good faith comply with the terms of the above, or falsifying or otherwise violating these terms shall constitute a material breach of this Agreement, and shall entitle the Client to impose sanctions against Nexus including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of Nexus from doing further business with the Client for up to three (3) years.

In witness whereof, the undersigned have executed this AGREEMENT effective as of the day and year first set forth above.

"Nexus"

By: Frank S Kelly Date 2-11-5.
Frank S. Kelly, President

By: _____ Date _____
Jeffrey S. Wuensch, COO

**CLIENT**

Jackson TOWNSHIP TRUSTEE OF BROWN COUNTY, INDIANA

_____ Date 2/11/05

Jeff Richardson, Jackson Twp. Trustee

NR

~~BOARD OF COMMISSIONERS OF BROWN COUNTY, INDIANA~~

_____ Date _____

_____ Date _____

_____ Date _____

# Attachment 1

**Nexus Group Deliverables:**

1. **Create and Verify Brown County Sales Disclosure Form Database.** Verification may include use of MLS data (see Brown County deliverables). Verified Sales Disclosure Form Database due within ninety (90) days of provision of data by Client.

2. **Develop Sales/Appraisal Database by Township, Neighborhood, and Property Class.**

3. **Review, Consolidate and/or Expand Existing Neighborhood Delineations with Sales Data.**

4. **Generate Preliminary and Final Trending or Market Adjustment Factors for all real property improvements.** All residential, agricultural, commercial and industrial improvements shall receive a trending or market adjustment factors so as to be in compliance with 50 IAC 21 – Annual Adjustments. Due within sixty (60) days of provision of data by Client.

5. **Determine Land Values.** For all property classes except Agricultural property, Nexus shall determine base rates and create a new or modified land order per the desires of the Client.

**Brown County Deliverables:**

1. **Provide hard copies of Brown County Sales Disclosures from 2003 and 2004.** At the earliest date possible.
2. **Provide access to the final Brown County Land Order in place for the Valuation data for the 2002 assessment cycle.**
3. **Provide computer access to the Client's PROVAL system via at least one computer in Brown County.** Client and Nexus shall work together to determine a starting date to provide this access.
4. **Provide detailed County, Township and Neighborhood Maps in a format and number as detailed by Nexus.** At a date to be mutually determined.