

Miami

MISC. 52MISCO4

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**2007**

**Commercial New Construction and  
Maintenance Agreement**

**Miami County, IN**

**MANATRON**

The power to manage well.

**4105 Executive Dr.  
Beavercreek, Ohio 45430-1071**

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## Articles of Agreement

**THIS AGREEMENT**, by and between the **MIAMI COUNTY ASSESSOR**, hereinafter referred to as the *Assessor*;

**AND**

**MANATRON, INC.** hereinafter referred to as *Manatron*.

### WITNESSETH THAT

**WHEREAS**, the Assessor has determined that they should employ Manatron as a technical advisor for general assessment purposes according to the provisions of IC 6-1.1-4-17; and

**WHEREAS**, the Assessor has fulfilled all other statutory conditions precedent to the employment of a technical advisor; and

**WHEREAS**, the Assessor wishes to employ Manatron and Manatron is willing to be employed by the Assessor; and

**WHEREAS**, Manatron is a Professional Appraiser as that term is defined in IC 6-1.1-4-17(c);

**NOW, THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, the Assessor and Manatron hereby enter into this Agreement for technical assistance.

### 1.0 CONSIDERATION

The Assessor shall pay Manatron as follows:

A minimum fee of **FIVE THOUSAND DOLLARS (\$5,000.00)** for all assessing duties, responsibilities, and activities as defined in Article 3.0 of this Agreement up to **FIFTY (50)** total commercial parcels. For each commercial parcel in excess of the above, Manatron would be paid **NINETY DOLLARS (\$90.00)**. Per Diem pricing for Additional services by request of the Assessor is defined in Article 7.0.

## **2.0 TERMS OF AGREEMENT**

**2.1** The Assessor shall first notify Manatron of properties and parcels Manatron is to assess on or before January 1, 2008. All parcels (a final list) shall be submitted to Manatron on or before January 1, 2008.

Manatron shall commence work under this Agreement after notification from the Assessor of the properties and parcels to be assessed and upon execution of this Agreement.

**2.2** Manatron shall complete all work provided for in this Agreement (except as defined in Article 7.0) on or before February 1, 2008.

## **3.0 MANATRON RESPONSIBILITIES**

**3.1** Manatron shall gather all information needed to determine true tax values and assessed values for certain specified properties for the March 1, 2007, assessment date. All final decisions as to assessed values, procedures followed, forms used, and the extent of the services supplied shall be made by the Assessor.

**3.2** The Assessor shall notify Manatron of the parcels that Manatron is to assess. This notification shall be in writing, with each parcel number listed by township. With the notification, the Assessor shall provide or make available to Manatron all information the Assessors have concerning each parcel to be assessed, including, but not limited to, a copy of the current property record card, any (where appropriate) and all information about the geographic location (tax maps) of the property obtained from building permits, assessment registration notices under IC 6-1.1-5-15, or other comparable means. Notification shall be deemed to be given when mailed or, if not mailed, upon actual receipt of the notification.

**3.3** Manatron shall be responsible for the identification of each parcel of real property in accordance with the property class codes as established by the Department of Local Government Finance in the "Indiana Real Property Assessment Manual".

**3.4** Manatron shall verify the measurements of all property (per notification list), as well as a complete listing of the component parts of the structure, and prepare a property record card for each parcel that is fifty percent (50%) complete as of March 1, 2007.

**3.5** Manatron shall not be responsible for the data entry of any field data collection and changes to the properties and parcels (per notification list) that are addressed as part of this Agreement.

**3.6** Manatron shall not be responsible for generating (printing) a property record card and Form 11 after the completion of data entry.

**3.7** Upon review and approval of the Form 11's by Manatron and Assessor, the Assessor shall be responsible for the mailing of a new Form 11 for any property that was assessed by Manatron per this Agreement.

#### 4.0 QUALITY CONTROL

- 4.1 The Assessor reserves the right to inspect the work being done by Manatron at frequent intervals during this Agreement.
- 4.2 The Assessor, upon request, may inspect the records of Manatron to verify the progress and evaluate the quality of work performed and may accompany Manatron personnel in their assigned duties to assure Manatron's adherence with contractual specifications and approved procedures. Manatron shall extend its full cooperation to the Assessor by providing access to all program-related records and by making personnel available, upon request, for the purpose of monitoring quality, performance, and progress.

#### 5.0 CERTIFIED APPRAISER

- 5.1 Manatron's supervisor of work under this Agreement shall be an individual who is certified as a Level Two Assessor-Appraiser under IC 6-1.1-31.7. All personnel not so qualified shall perform their responsibilities under the direct supervision of a Certified Level Two Assessor-Appraiser.
- 5.2 The Assessors reserve the right to approve Manatron who is doing the assessment work.

#### 6.0 REPORTS

- 6.1 Manatron shall deliver to the Assessor (upon request) a work plan that shows a schedule for the completion of work done under this Agreement. The work plan is subject to approval by the Assessor.
- 6.2 Manatron shall make periodic reports (upon request) to the Assessor. This report shall include the number of parcels being reviewed by Manatron and the status of the work being done.

#### 7.0 ADDITIONAL SERVICES

##### 7.1 Appeals:

**7.1.1 Informal Hearings.** Manatron (upon request) shall be required to make the certified appraiser (Article 5.0) available for informal hearings and for the purpose of conducting fieldwork relating to taxpayer inquiries. This shall include the responsibility for re-inspection, as may be required, and for data corrections to individual parcels of real property based upon a reanalysis and re-inspection of parcels.

**7.1.2 Board of Review Hearings.** Manatron (upon request) shall provide support of values before the Miami County Property Tax Assessment Board of Appeals (PTABOA) which shall be made by a certified appraiser (Article 5.0) of Manatron. Manatron shall cooperate with the PTABOA and the County Assessor on any appeals. Manatron shall make recommendations to the PTABOA and indicate the same on the property record card.

**7.2 Consultation.** Manatron (upon request) shall provide consultation, including, but not limited to, use of CAMA software, property assessment and assessment procedures.

**7.3 Compensation.** Manatron shall be paid **FIVE HUNDRED DOLLARS (\$500.00)** per diem, plus expenses, for the duties and activities as defined in Articles 7.1 and 7.2. Additional services are anticipated to be ten (10) days, or such additional days specified by the written request of the Assessor.

## **8.0 TIME AND MANNER OF PAYMENT**

**8.1** Manatron shall be paid as follows:

At the end of each month, Manatron shall submit a claim for payment for work done under this Agreement during that month. The amount of each monthly payment is subject to approval by the Assessor. Approval shall be based on the progress reports (upon request) submitted by Manatron and on the Assessor inspection of Manatron's assessment records. Payment shall be made to Manatron within thirty (30) days after approval by the Assessor.

**8.2** If all work is not submitted under this Agreement by the completion date specified in Article 2.2 of this Agreement, then all further payments shall be suspended at that time until all work has been completed as certified under Article 8.1 of this Agreement. Payment of the suspended amount shall be made to Manatron within thirty (30) days after that certification.

**8.3** Failure of the Assessor to make payment when due shall entitle Manatron, in addition to its other rights and remedies, to suspend, temporarily, further performance of this Agreement without liability.

**8.4** Additional compensation that may be due Manatron as the result of services requested by the Assessor as specified in Articles 7.1 and 7.2 of this Agreement (not limited to) shall be invoiced in the month subsequent to the month in which the services were provided.

## **9.0 PENALTIES**

The payment made to Manatron shall be reduced by the amount of **ONE HUNDRED DOLLARS (\$100.00)** per business day for each business day that the assessments by Manatron remain incomplete after the terms as described in Article 2.2.

## **10.0 GENERAL PROVISIONS**

**10.1** This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understandings between the Assessor and Manatron. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Agreement, and neither party shall be bound by or liable for any alleged representation, promise, inducement, or statement of intention not so set forth.

- 10.2** No waiver, alteration, modification, or cancellation of any of the provisions of this Agreement shall be binding unless in writing and signed by all those signing this Agreement or their successors in office. The failure of either party at any time or times to require performance of any provisions of this Agreement shall not be considered a waiver and shall in no manner affect the right at a later time to enforce that provision.
- 10.3** In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions contained in this Agreement. If any provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity, or subject, it shall be construed by limiting and reducing it so as to be enforceable to the extent compatible with the applicable law as it then shall appear.
- 10.4** This Agreement shall be subject to and interpreted in accordance with the laws of the State of Indiana and suit, if any, shall be brought in Indiana courts.
- 10.5** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns, and legal representatives; provided, however, that the rights, duties, and privileges of Manatron under this Agreement may not be transferred, sublicensed, or assigned by it, either in whole or in part, without the prior written consent of the Assessor.

## **11.0 DELAYS**

- 11.1** Whenever Manatron or the Assessor have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, they shall, within ten (10) 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.
- 11.2** 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.

**12.0 DISPUTES**

Any dispute between the Assessor and Manatron as to the terms of this Agreement shall be submitted to the State Board of Tax Commissioners, who shall as rapidly as practicable determine the rights and duties entered into hereunder. The interpretation made by the State Board of Tax Commissioners shall be binding upon the Assessor and Manatron. The matter disputed shall be submitted in writing, with a copy of such writing being given to the other party. The Assessor shall not submit such a dispute to the Department of Local Government Finance without first notifying the Manatron.

**13.0 TERMINATION**

**13.1** The Assessor may terminate this Agreement if it's determined that Manatron has failed to make satisfactory progress towards performance. In such case, the Assessor shall transmit a termination notice of the fault to Manatron by certified mail, return receipt requested, at least thirty (30) days prior to the proposed termination date, and Manatron shall be given thirty (30) days in which to remedy the condition which has caused the termination notice or suffer termination.

**13.2** Manatron shall continue Agreement performance to the extent not terminated under the provisions of the above paragraph and shall be compensated for its performance pursuant to an agreement of the parties.

**13.3** In the event the Assessor terminates this Agreement, in whole or in part as provided in this clause, the Assessor may procure, upon such terms and in such manner as they may deem appropriate, services similar to those so terminated, and Manatron shall be liable to the Assessor for any excess costs for such similar services; provided, however, the amount of the performance bond, if any, retained by the Assessor shall be deducted in determining the excess costs.

**14.0 INDEPENDENT CONTRACTOR**

In the performance of this Agreement, both parties shall be acting in an individual capacity and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be deemed or construed to be employees or agents of the other party for any purposes whatsoever.

**15.0 PROFESSIONAL APPRAISER'S LIMITATION OF LIABILITY**

**15.1** Manatron agrees to indemnify, defend, and hold harmless the Assessor and their townships and County and all officers, and employees of those townships and that County from all claims and suits, including court costs, attorney fees, and other expenses, caused by any act or omission of Manatron and/or its subcontractors, if any.

- 15.2 Manatron's maximum liability for any and all claims arising directly or indirectly from the performance of the work or otherwise relating to the project, whether resulting from Manatron's negligence or otherwise and whether based on contract or tort, shall not in the aggregate exceed the amount Manatron is covered for under Manatron's insurance policy.
- 15.3 Any action by the Assessor on this Agreement or otherwise relating to the work or the project must be brought within the time allowable by Indiana Statute of Limitations law.

#### 16.0 NONDISCRIMINATION

- 16.1 Pursuant to IC 22-9-1-10, Manatron and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement 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.
- 16.2 Affirmative Action shall be provided upon request.

#### 17.0 INSURANCE AND WORKERS' COMPENSATION

Manatron shall carry public liability and Workers' Compensation insurance and shall save the Miami County officers harmless from all claims, demands, payments, suits, actions, recoveries, and judgments of every kind and description brought or recovered against it by reason of any act or omission of Manatron, its agents, or employees of the work described.

#### 18.0 MAINTAINING A DRUG FREE WORKPLACE

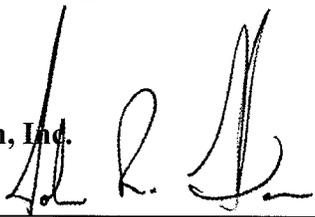
- 18.1 Manatron hereby covenants and agrees to make a good faith effort to provide and maintain, during the term of this Agreement, a drug free workplace and that it shall give written notice to the Assessor within ten (10) days after receiving actual notice that an employee of Manatron has been convicted of a criminal drug violation occurring in the Manatron's workplace.
- 18.2 In addition to the provisions of Article 18.1 above, if the total Agreement amount set forth in this Agreement is in excess of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)**, Manatron further agrees that this Agreement is expressly subject to the terms, conditions, and representations contained in the Drug Free Workplace Certification executed by Manatron in conjunction with this Agreement and which is appended as an attachment to this Agreement.

18.3 It is further expressly agreed that failure of Manatron to in good faith comply with the terms of Article 18.1 above or falsifying or otherwise violating the terms of the certification referenced in Article 18.2 above shall constitute a material breach of this Agreement and shall entitle the Assessor to impose sanctions against the Manatron, including, but not limited to, suspension of contract payments, termination of this Agreement, and/or debarment of Manatron from doing further business within the State of Indiana for up to three (3) years.

IN WITNESS THEREOF, the parties have executed this Agreement by their duly authorized officers. Said Agreement shall not be in effect until all parties to this Agreement have executed the same.

Manatron, Inc.

By



Title Director of Risk Management

Date December 10, 2007

Witness



Accepted: Miami County, Indiana

By



Title

Miami County Assessor

Date

12-12-07

Witness

