

RESOLUTION 93-12

**RESOLUTION AUTHORIZING EXECUTION OF
AGREEMENT BETWEEN THE BOROUGH OF CLAYTON AND MANNA
DESIGN WORKS
NUNC PRO TUNC**

WHEREAS, Manna Design Works and the Borough of Clayton have agreed to enter into an Agreement for website support services; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Clayton, County of Gloucester, and State of New Jersey as follows:

1. That the governing body does hereby approve the attached Agreement between Manna Design Works and the Borough of Clayton.
2. That the Mayor be and is hereby authorized to execute said contract on behalf of the Borough of Clayton.

ADOPTED, at a regular meeting of the Mayor and Council of the Borough of Clayton held on April 12, 2012.

BOROUGH OF CLAYTON



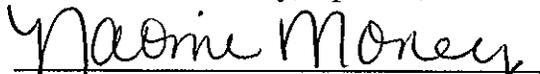
THOMAS BIANCO, Mayor

Attest: 

CHRISTINE NEWCOMB, Borough Clerk

CERTIFICATION

I, Christine Newcomb, Borough Clerk, of the Borough of Clayton, do hereby certify that the foregoing Resolution was presented and duly adopted by the Borough Council at a meeting of the Borough of Clayton, held on Thursday, April 12, 2012.



CHRISTINE NEWCOMB, Borough Clerk

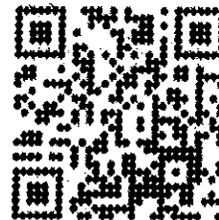
MANNA **MDW** DESIGN WORKS

Business Driven Creativity™

Proposal for Website Support Services

Prepared For
Clayton Borough

March 22nd 2012



Proposed Work

Clayton Borough Web Site

Manna Design Works will upgrade and update the current Clayton Borough WordPress powered website.

The current site is 12 versions old, 3 of those being considered major upgrades. The fact that the software is outdated opens the Borough to the possibility of malicious attacks succeeding against the site, where-in harmful code may be inserted or offensive material posted. While no software is 100% impervious, the latest version of WordPress will limit the exposure as much as possible.

The site will be modified to match the demo site: www.easy-municipal-websites.com/mannatown

The general color scheme will be changed to match the Borough colors. The seal and photos will also feature Clayton imagery.

Every attempt will be made to use the existing Borough web hosting account. This proposal does not include custom design services and will result in a site that looks exactly like the demo, but with Clayton colors, photos and seal. The navigation elements can be customized to what would be appropriate for Clayton. The price shown takes into consideration that the Borough will be imputing a fair amount of the current copy and past minutes. Manna will focus on having the site set up, formatted and ready to receive copy. The copy Manna inputs will be just enough to establish the look and feel of the site.

Borough employees will have complete control of the site after the upgrade. This includes adding photos, minutes, news, etc. Manna will provide 2 one-hour online training sessions in the use of WordPress.

One Time Price for This Work: \$1000.00

Note On Pricing: This software and programming packaged would normally cost between \$4,000 - \$5,000. We are able to offer a reduced rate due to several factors: 1. Clayton is already using a WordPress site. 2. You have opted to make use of the demo site with minimal modifications. 3. The Borough employees will be inputting a majority of the existing copy.

As part of this proposal, after the work is complete and has been evaluated, we request the Borough to provide Manna with a testimonial about the site and its functionality. As previously discussed, Manna would like to use Clayton as a case study for the topic of using WordPress powered websites for improved Municipal/Resident Communications. Manna also requests the placement of a "Designed By Manna" statement with a logo at the bottom of the site, placed in an unobtrusive manner.

About WordPress

Site will be built on the WordPress, PHP powered, open source software. Some facts about WordPress:

1. Definition of "Open Source Software" (from www.webopedia.com)

Open Source refers to a program in which the source code is available to the general public for use and/or modification from its original design free of charge. Open source code is typically created as a collaborative effort in which programmers improve upon the code and share the changes within the community
2. As of November 2010, 32 Million Sites Using it. (<http://en.wordpress.com/stats/>)

3. Some Companies Currently Using WordPress* (<http://wordpress.org/showcase/tag/fortune-500/>)

American Express	GM	Onstar
Anderson Cooper	Harvard University	People Magazine
Best Buy	Honda	Pepsi
Coca-Cola	Intel	Samsung
Ebay	NFL	Samsung
Fisher Price	Nikon	UPS
Ford Motor Company	Nokia	Wall Street Journal
GE	Old Spice	Xerox

And Now, The Fine Print...

1. Client to provide photography and artwork in digital format. If images cannot be provided digitally, scanning charges will apply.
2. Manna Design makes available up to (6) images from its iStock.com photography standard library, included in the above price. Agency Collection photos are excluded. Images must be either x-small or small in file size. A project modification will be required if project requires specific photographs not within our iStock library or provided by client or if the client request more images than what is included above.
3. As open source software, WordPress is free to the public. The costs associated with this proposal are for Manna's time, experience and expertise in the installation, customization, set up, and training of the software.
4. Additional work to be completed at the rate of \$95.00/ hour. This would include pages or features deemed necessary and added by the client during development. Additional work will be completed only with written approval from the client.
5. This Proposal does not include Website Hosting. This is usually because the client already has a website hosted with another company or has hosting provided as a package through an Internet Service Provider. Manna Design Works uses standard HTML and WordPress coding for its websites. While our coding generally works on all web hosts, Manna cannot guarantee functionality with all providers. For WordPress Sites, the WordPress Codex has all server requirements listed to ensure a properly functioning site.
6. In exchange for the reduced rate for its services, Manna requests the following, the duration of which would equal the use of the site:
 - A. Manna to place a small logo stating "Designed By", in an unobtrusive location at the bottom of the site pages.
 - B. A press release be sent out by the recipient organization (we will be happy to write the release) announcing the launch of the site, as well as our involvement and support.
7. This site will be optimized for Internet Explorer 8, 9, Chrome and Firefox. While IE7 is still in use, it debuted in October 2006 and is considerably behind in many capabilities required for today's websites. The site will still function using IE7 and earlier, but not optimally.
8. This contract does not include the following services:
 - A. Site Maintenance – Manna provides many options for the ongoing updates and changes to a site. These include Hourly Service, Monthly Contracts and Block Hours.
 - B. Search Engine Submission - While eventually, every site may be indexed and ranked by the search engines, this project does not include the services required to actively promote rapid indexing. Basic search engine compatibility will be included with all websites. If and when a search engine spider does visit this site, there is no guarantee how well the site will rank in the search results.
 - C. Site Monitoring – Once a site is launched, Manna does not regularly visit that site to check functionality. Manna advises clients to check their site daily for this reason. At the client's request, a service contract can be purchased that would include daily or weekly site checks.
 - D. Site Back Ups – Manna maintains a copy of all site files for website maintained and updated by Manna. For sites updated by the client, (traditional HTML, ASP or WordPress sites) Manna recommends creating a copy of the site after every change. Upon request, Manna will provide instruction on how to do this. At the client's option, Manna can perform daily or weekly back ups for a small fee.
 - E. Legal Services – Manna may place a Copyright Notice or Icon © on a web site, name or other material, but does not actually file work with the US Copyright Office. This is the sole responsibility of the client.

These services incur additional fees. If interested, a separate quote will be provided with details. Furthermore, any service, feature or capability not outlined specifically in this proposal is not included in the above cost. If you believe something should have been included, but was not mentioned, please bring it up before the project starts.
9. Manna often makes use of 3rd party elements (software, plugins, widgets and add-ons) to enhance the functionality of the site. Some are free, others have a cost associated with their use. Manna's fees for these additional elements are often a combination of product cost and time required to implement them. While Manna makes every effort to only select quality elements, it is possible that at some point of a site's life, a particular element will have compatibility issues with internet browsers and other elements. Though rare, this is an unavoidable possibility caused by changes to browsers,

computer operating systems, and updates to the software elements themselves. If this occurs, Manna will attempt to find the least expensive solution with the least impact to site operation, but charges may be incurred by the client for time and or software.

10. Despite Manna's enthusiasm and best hopes for a project, we can not guarantee its ultimate success beyond the scope of providing a working, properly functioning site or professionally executed printed piece. This applies to all projects, but particularly those with sales goals, ROI goals and desired end user actions/responses. If any of these benchmarks or goals are discussed during development, they are to be considered for discussion purposes only and in no way constitute a performance guarantee.
11. Price does not include any third party merchant services for credit card processing (Authorization and Capturing of funds). For this service, Manna highly recommends using Authorize.Net or PayPal.
12. No Exclusivity. The parties expressly acknowledge that this Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by Manna, and Manna shall be entitled to offer and provide these services to others, solicit other clients and otherwise advertise the services offered by Manna.
13. GUARANTEE: All work will be completed in a professional manner according to standard practices. All agreements are contingent upon strikes, accidents or delays beyond our control. This includes portions of the work relying on 3rd party involvement (such as domain transfers). In the case of hourly estimates, actual hours will be billed.
14. TERMS OF DESIGN USE: By signing this proposal, you understand that upon payment of any balances due, the resulting graphic design work (i.e. the website's design) will become the property of the client, with some restrictions, as follows: The actual design and concepts provided may only be used as a website, hosted for public or private viewing on a web server or private intranet, unless additional uses are specified in the proposal. Without specific written permission of Manna Design Works, the design may not be altered or used for other purposes, such as (but not limited to) business cards, CD or DVD presentations, t-shirt graphics, TV commercials, letterhead, billboards, magazine advertisements, etc. Likewise, the concept may not be used for other projects (as above) without the specific written permission of Manna Design Works. Upon receipt of a written request detailing the proposed additional use and scope of the project, Manna will reply with licensing requirements, fees and restrictions, if any. All concepts, sketches or PDF files presented and not developed for final use will remain the property of Manna Design. Manna retains the right to reproduce, publish and display the Deliverables in Manna's portfolios and websites, and in galleries, contests, design periodicals and other media or exhibits for the purposes of securing additional clients, recognition of creative excellence or for general professional advancement, and to be credited with authorship of the Deliverables in connection with such uses.
15. WARRANTIES AND REPRESENTATIONS
 - A. By Client. Client represents, warrants and covenants to Designer that (a) Client owns all right, title, and interest in, or otherwise has full right and authority to permit the use of the Client Content, (b) to the best of Client's knowledge, the Client Content does not infringe the rights of any third party, and use of the Client Content as well as any Trademarks in connection with the Project does not and will not violate the rights of any third parties, (c) Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials, and (d) Client shall comply with all laws and regulations as they relate to the Services and Deliverables.
 - B. By Manna Design. (a) Manna hereby represents, warrants and covenants to Client that Designer will provide the Services identified in the Agreement in a professional and workmanlike manner and in accordance with all reasonable professional standards for such services. (b) Designer further represents, warrants and covenants to Client that (i) except for Third Party Materials and Client Content, the Final Deliverables shall be the original work of Designer and/or its independent contractors, (ii) in the event that the Final Deliverables include the work of independent contractors commissioned for the Project by Designer, Designer shall have secure agreements from such contractors granting all necessary rights, title, and interest in and to the Final Deliverables sufficient for Designer to grant the intellectual property rights provided in this Agreement, and (iii) to the best of Designer's knowledge, the Final Art provided by Designer and Designer's subcontractors does not infringe the rights of any party, and use of same in connection with the Project will not violate the rights of any third parties. In the event Client or third parties modify or otherwise use the Deliverables outside of the scope or for any purpose not identified in the Proposal or this Agreement or contrary to the terms and conditions noted

herein, all representations and warranties of Designer shall be void. (c) EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS AGREEMENT, DESIGNER MAKES NO WARRANTIES WHATSOEVER. DESIGNER EXPLICITLY DISCLAIMS ANY OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR COMPLIANCE WITH LAWS OR GOVERNMENT RULES OR REGULATIONS APPLICABLE TO THE PROJECT

16. INDEMNIFICATION/LIABILITY

- A. By Client. Client agrees to indemnify, save and hold harmless Designer from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any breach of Client’s responsibilities or obligations, representations or warranties under this Agreement. Under such circumstances Designer shall promptly notify Client in writing of any claim or suit; (a) Client has sole control of the defense and all related settlement negotiations; and (b) Designer provides Client with commercially reasonable assistance, information and authority necessary to perform Client’s obligations under this section. Client will reimburse the reasonable out-of-pocket expenses incurred by Designer in providing such assistance.
- B. By Manna. Subject to the terms, conditions, express representations and warranties provided in this Agreement, Designer agrees to indemnify, save and hold harmless Client from any and all damages, liabilities, costs, losses or expenses arising out of any finding of fact which is inconsistent with Designer’s representations and warranties made herein, except in the event any such claims, damages, liabilities, costs, losses or expenses arise directly as a result of gross negligence or misconduct of Client provided that (a) Client promptly notifies Designer in writing of the claim; (b) Designer shall have sole control of the defense and all related settlement negotiations; and (c) Client shall provide Designer with the assistance, information and authority necessary to perform Designer’s obligations under this section. Notwithstanding the foregoing, Designer shall have no obligation to defend or otherwise indemnify Client for any claim or adverse finding of fact arising out of or due to Client Content, any unauthorized content, improper or illegal use, or the failure to update or maintain any Deliverables provided by Designer.
- C. Limitation of Liability. THE SERVICES AND THE WORK PRODUCT OF MANNA DESIGN WORKS ARE SOLD “AS IS.” IN ALL CIRCUMSTANCES, THE MAXIMUM LIABILITY OF MANNA, ITS DIRECTORS, OFFICERS, EMPLOYEES, DESIGN AGENTS AND AFFILIATES (“DESIGNER PARTIES”), TO CLIENT FOR DAMAGES FOR ANY AND ALL CAUSES WHATSOEVER, AND CLIENT’S MAXIMUM REMEDY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO THE NET PROFIT OF DESIGNER. IN NO EVENT SHALL DESIGNER BE LIABLE FOR ANY LOST DATA OR CONTENT, LOST PROFITS OR ADVANTAGE OF ANY KIND, INCREASED COST OF OPERATIONS, BUSINESS INTERRUPTION OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE MATERIALS OR THE SERVICES PROVIDED BY DESIGNER, EVEN IF DESIGNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

TERMS (Unless Stated Otherwise): 50% Deposit *Balance When Ready To Launch, Before Site Can Go Live

For WordPress powered sites where client will be providing copy and maintaining the site, the site will be considered “Ready to Launch” once the site is fully functional. Waiting for client supplied copy will not constitute cause to delay final payment. Manna Design Works reserves the right to bill for the remaining balance, less 10%, should the project become stalled waiting on client feedback or client supplied material, such as text or images. This “Stalled Project Invoice” will be utilized after 3 weeks of no response for approvals or lack of providing required materials to finish the project.



PO Box 190, Glassboro, NJ 08028 p 856.881.7650 f 877.550.3111
www.CallManna.com info@CallManna.com f 856.881.7651

ACCEPTANCE OF PROPOSAL: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

SIGNATURE:  TITLE: Mayor

DATE: 3-22-12

Please initial the bottom of all pages, sign above and return a copy with the deposit. This proposal is valid until 4/15/2012, after that time it will need to be re-evaluated for pricing, timeframe and included features.



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