

ORDINANCE NO. 31-99

By: Anne Porter

An Ordinance to authorize the Mayor and Auditor to execute an agreement with Myers Schmalenberger, Inc., for professional planning and design services for the period from May 1, 1999, through December 31, 2000.

WHEREAS, Ordinance No. 56-98 authorizes Council, to employ independent architects or planners to render professional services to the City; and,

WHEREAS, Ohio Revised Code Section 153.71 (A)(B) requires municipalities to announce the availability of the contract; evaluate qualifications of interested professional design firms; and negotiate a contract with the most highly qualified firm; and,

WHEREAS, after following the procedures listed above, Council finds that the firm of Myers Schmalenberger, Inc., is the firm best qualified to provide planning and design services to the City of Bexley. **NOW, THEREFORE,**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:**

Section 1. That the agreement with Myers Schmalenberger, Inc., is hereby approved in the form attached to this Ordinance and that the Mayor and Auditor are hereby authorized and directed to execute said agreement on behalf of the City.

Section 2. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: 4/13, 1999

*[Signature]*  
President of Council

Attest: *Richard A. Levin*

Approved: 4/13, 1999

*[Signature]*  
David H. Madison, Mayor

*4/13/99 first reading  
second and  
suspend third reading  
passed.*



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SCHMALENBERGER

GIS  
Planning  
Urban Design  
Landscape Architecture  
COLUMBUS CINCINNATI

**Agreement  
between the City of Bexley, Ohio  
and  
Myers Schmalenberger, Inc.  
for professional planning and design services  
for the City of Bexley  
for the period beginning May 1, 1999  
and ending December 31, 2000.**

This agreement entered into this --- day of April, 1999 and running until the 31<sup>st</sup> day of December 2000, by and between the City of Bexley, Ohio acting through the Director of Public Service, pursuant to and under authority of Ordinance No.----, passed by the Council of the City of Bexley, Ohio on ----, 1999, Part of the First Part, hereinafter designated as the "CITY" and Myers Schmalenberger, Inc., Columbus, Ohio, Part of the Second Part, hereinafter designated as the "PLANNER".

WITNESSETH, that in consideration of One Dollar and other good and valuable consideration, including the mutual promises and agreement hereinafter set forth, the PLANNER and CITY do hereby agree as follows:

**A. Assumptions:**

1. The Client will be the City of Bexley. The Consultant is to be Myers Schmalenberger, Keith Myers, Principal in Charge, Thomas J. Rubey, Director of Planning.
2. Work shall be performed as requested by the Client.
3. The following Scope of Work is based upon our current understanding of work to be completed. Any additional services that may be required can be identified and additional fees can be authorized accordingly and will be based on our standard hourly rate.

**B. Scope of Work:**

1. The Consultant would act as the primary planning consultant to the Planning Commission, the Administration, and the Council. The work performed may include:
  - Meetings with applicants, the administration and the Director of Development to review proposed developments.
  - Preparation of Staff Reports for the use of Planning Commission and Council in reviewing proposed developments.
  - Attendance at all Planning Commission meetings.
  - Attendance at Council Meetings (as required).

462 South Ludlow Alley  
Columbus Ohio 43215  
(614) 621-2796  
FAX (614) 621-3604  
EMAIL MAIL@MSICOLS.COM

2043 Madison Road  
Cincinnati Ohio 45208  
(513) 321-2796  
FAX (513) 321-3605

**C. Fees Proposal:**

1. Professional Fees:

a. We propose to provide the above services at our standard hourly rates of:

Partner	\$90.00
Planner I	\$76.50
Planner II	\$63.00
Graphic Designer	\$50.00
Administration	\$40.00

b. We will invoice only for time which is spent. We have found in the past that the annual fee budget for these services can vary greatly depending on the number and complexity of the applications in a given year

2. Direct Project Expenses:

Direct project expenses will be billed in addition to the fee for basic services and include actual out of pocket expenditures made in the interest of the Project. These might include:

a. Requested plotted documents will be invoiced at the following rates: (excluding those for office use)

30" x 42" Color Plot	\$30/ea.
24" x 36" Color Plot	\$25/ea.
18" x 24" Color Plot	\$15/ea.
11" x 17" Color Plot	\$ 8/ea.
B/W Plots – bond	\$10/ea.
B/W Plots – vellum	\$12/ea.
8 1/2" x 11" Color Laser Print	\$0.85/ea.
Xerox Plan Sheet Copy	\$0.25/SF

1. Additional Services:

a. Additional planning exercises, or other services would be considered an additional service. These may include area planning studies, design studies of public improvements, etc. Fees will be determined and approved by the Client at the time of request. Additional services, if requested, will be calculated at our standard hourly rate as listed above.

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2. Reimbursable Expenses:
  - a. Reimbursable expenses will be billed in addition to the fee for basic services and include actual out of pocket expenditures made in the interest of the Project and will be billed at 1.2 times the actual amount. These might include:
    1. Reprographics (excluding those for office use), postage and handling of documents, courier services, mileage, film, photos, etc.
3. Payment due the Consultant and unpaid thirty (30) days from the date of invoice shall bear interest from the date payment is due at the rate of one percent (1%) per month (annual percentage rate of 12.0%) and shall be due the Consultant. The Consultant may discontinue work on the Project if the account is unpaid 30 days from the date of invoice.
4. If the Scope of Work or if the Consultant's services is substantially revised, the estimate of total compensation shall be equitably adjusted.

**D. Termination of Agreement:**

1. This Agreement may be terminated by either party upon seven (7) days written notice with or without cause.
2. In the event of termination not initiated by the Consultant, the Consultant shall be compensated for all services performed to the date of termination, together with reimbursable expenses then due.

**E. Miscellaneous Provisions:**

1. This Agreement represents the entire and integrated Agreement between the Client and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Client and Consultant.
2. The Client agrees to limit the Consultant's liability to the Client and to all persons, contractors, and subcontractors on the Project, due to the Consultant's professional negligent acts, errors or omissions such that the total aggregate liability of the Consultant to all those named shall not exceed the amount of the fee.

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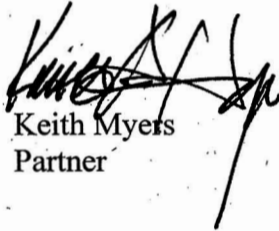
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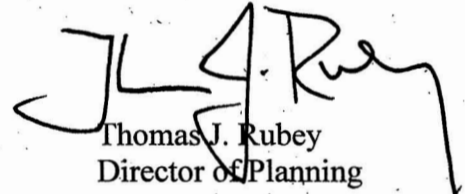
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3. The Client understands that there may be misinterpretations of the design professional's plan and specifications during construction which may lead to errors and subsequent damage. Inasmuch as the Client has elected to proceed with the work without the design professional providing construction review services, the Client agrees to indemnify and hold-harmless the design professional against any and all claims, damages, awards and cost of defense, which may arise out of out of the acts of the contractor performing work not in compliance with the intent of the design documents.
4. The Consultant upon delivery of documents is completely absolved and indemnified from any liability that may result from the interpretation or revision of documents for which the Consultant was not responsible.
5. The Consultant has been commissioned by the Client to provide professional services which are independent of whether the Project for which they are provided is executed or not. The Client shall compensate the Consultant for services provided in accordance with the Project whether it is executed or not.

Thanks for the opportunity to work with you again.

Sincerely,

  
Keith Myers  
Partner

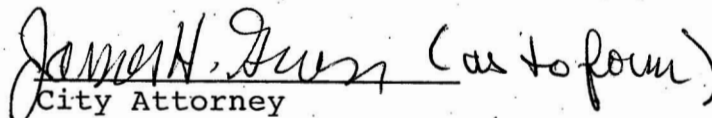
  
Thomas J. Rubey  
Director of Planning

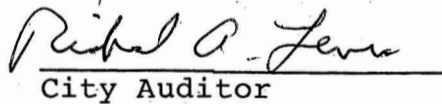
Accepted by:

 Mayor 4/16/99

Name and Title

Date 4/23/99

 (as to form)  
City Attorney

  
City Auditor

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