



MKSK COLUMBUS  
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Columbus, Ohio 43215  
614.621.2796

September 19, 2018

City of Bexley Tree Commission  
Susan Quintenz, Chair

Bexley City Hall  
2242 East Main Street  
Bexley, Ohio 43209

**RE: Landscape Architectural Services for Broad/Gould Streetscape**

Susan:

It was a pleasure to meet with you and your colleagues at City Hall. Andrew, Dan and I greatly appreciated your time and conversation. We remain enthusiastic about the city of Bexley as the premier community in central Ohio and honored to be considered for further involvement. As requested, MKSK is pleased to submit this proposal to provide professional services for the above referenced project. Based upon our recent conversations, it is our understanding that this project consists of the advancement of previously prepared conceptual design leading toward physical improvements to this important city intersection.

Further, we suggest advancement of this design through Schematic Design level to enframe the scope of the project, provide graphics as necessary to adequately communicate the design intent and to provide needed cost estimating to allow for decision making relative to funding levels and construction sequencing. In this way, all of the above information is provided prior to your commitment on professional time and fees. Following this decision on funding availability and scope of project, we then can gladly provide you an additional proposal specifically tailored to produce the required site design and construction documentation including horizontal layout, grading/storm drainage, site utilities input, planting, irrigation, site construction details, technical specifications for that scope and estimate of probable construction costs. Bidding period and limited Contract Administration services would also be provided therein.

Based upon this understanding of the project and the services requested by you, we propose the following scope of services.

**A. Pre-Design**

1. Initial meeting with commission to discuss concept, budget, schedule.
2. Secure base information necessary including but not limited to site survey information that may be available through City's Public Service Department, in electronic AutoCAD form if possible, depicting boundaries, topography, planimetric features and jurisdictional information such as easements, right-of ways and private/public utility information.
3. Site visit to familiarize design team with existing conditions and photo document certain areas of the site.

4. Prepare base plan from above information to act as the basis of the site design and documentation moving forward.

#### B. Schematic Design

1. From Concept Design previously prepared, prepare site layout study with options as may arise and seem logical, in working paper form.
2. Prepare sketches as may be necessary to communicate design intents in three dimensions.
3. Prepare “best practice” imagery in collage form to help in that communication.
4. Review meeting with Commission and city to solicit comment and gain concurrence on design direction.
5. From comments received above, refine preferred direction into Schematic Design level documentation.
6. Prepare preliminary estimate of probable construction costs, which reflect the scope of construction of the above-documented site development.
7. Prepare necessary graphics including color rendered site plan and/or three-dimensional images to communicate design intent.
8. Review meeting with Commission and city to solicit comment and gain concurrence on design direction.

Following this exercise, MKSK will prepare a detailed proposal to advance this design through construction documentation and beyond. That scope, while subject to further refinement, is generally reflected below.

#### C. Design Development

1. Refine the horizontal layout of planimetric features such as building, parking, walks, plazas, signs, etc.
2. Prepare base plan of same to be used by Civil Engineer for design and documentation of their responsible items.
3. Refine grading design including proposed contours, critical spot elevations, drainage structure locations and limits of grading.
4. Coordinate with the Civil Engineer for the preparation of storm drainage and site utilities plans by Civil Engineer. Storm drainage plans to include underground sewers and appurtenances, storm water management computations and coordination with the governing agency having jurisdiction for plan content requirements, review procedure and the securing of approvals. Site utilities plans to include domestic water service, fire protection service and sanitary sewer service, coordinated with the governing agency having jurisdiction. Gas, electric and communications services are to be coordinated by the building mechanical/electrical engineer with assistance from Civil Engineer and Landscape Architect.
5. Prepare preliminary site lighting plan in working paper form including fixture catalog cuts, preferred locations and installations to be forwarded to project Electrical Engineer for photometric analysis and circuitry design/documentation.
6. Prepare planting design including location of all trees and shrubs, limits of seed/sod and preliminary listing of plant types proposed.

7. Prepare preliminary site construction details as necessary and required by the above-documented site development.
8. Prepare outline-form technical specifications as necessary and in support of the above-documented site development.
9. Prepare preliminary estimate of probable construction costs, which reflect the scope of construction of the above-documented site development.
10. Review meeting with Owner and Design Team to solicit comment and gain concurrence on design direction.

D. Construction Documentation

1. Finalize site layout plan including necessary dimensions, detail keys, material identifications, construction and general notes.
2. Traffic control and directional sign locations and detail keys.
3. Finalize site grading plan including proposed contours, critical spot elevations, storm drainage structure locations, construction and general notes.
4. Final coordination with project Engineers regarding their preparation of storm drainage system plans, site utility plans and site lighting plans.
5. Finalize planting plan including locations of plant materials, plant list with genus, species size and type of plant, planting details, limits of seed/sod, construction and general notes.
6. Prepare site irrigation plan depicting all heads, valves, meters, piping backflow prevention device, details and notes.
7. Prepare site details sheet including sections, elevations and enlarged plans as necessary to adequately communicate design intent and construction quality to bidders/contractors
8. Prepare technical specifications in CSI format as necessary and in support of the above-documented site development.
9. Finalize estimate of probable construction costs.
10. Review meeting with Owner and Design Team to solicit comment, coordinate efforts and secure Owner approval of plans and the design intent they reflect.
11. Submit reproducible plans and specifications to Owner for printing, bid package assembly, advertisement and distribution to prospective bidders.

E. Bidding/ Contract Administration

1. Pre-bid meeting attendance as requested.
2. Clarifications and addenda preparation during bidding period.
3. Assistance in bid evaluation and award recommendation.
4. Pre-construction meeting attendance.
5. Periodic on-site construction observation and in-office documentation to monitor construction compliance with contract documents (assumes visits)

F. Pre-final and Final inspections including punch list preparation for site improvement items documented for construction as described above.

G. Assumptions

- 1. Base survey information including but not limited to topography, boundary and utilities is to be made available at the Owner's expense. Above information to be provided in electronic, AutoCAD format.
- 2. Soils investigation services including structural pavement design recommendations are to be provided at the Owner's expense at the outset of project design. Owner to provide site development budget, written program of space usage required/desired by the site design and all critical milestone dates for design, production and construction prior to the start of the above-described design process.

As a part of these services, MKSK will provide reproducible, original of Schematic Design documents. We are able to begin work immediately and anticipate completion of the process in a timely matter.

For the above described service, MKSK proposes to work hourly against the stated fee range plus reimbursable expenses. Please find attached our standard Terms and Conditions, which are a part of this proposal.

Pre-Design through Schematic design  
Hourly fee range not to exceed .....\$3,500 - 5,500.00

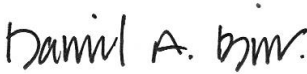
Should these arrangements be acceptable to you, please execute both copies, retain one (1) copy for your records and return one (1) copy to this office to act as the basis of our agreement and our notice to proceed. Should another form of contract be desirable to you, please contact this office and we will begin processing immediately.

Thank you for considering MKSK for this important project and we look forward to our involvement with you.

Respectfully submitted,  
MKSK, LLC



Brian P. Kinzelman, FASLA, AICP, LEED AP  
Senior Principal



Daniel A. Bier  
Designer

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_ PO #: \_\_\_\_\_

# TERMS AND CONDITIONS OF PROPOSAL



**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. All direct project expenses will be invoiced at 1.2 times the actual amount. Direct project expenses include, but are not limited to mileage, film and processing, courier and overnight delivery services, travel, hotel, car rental, etc. and may be adjusted annually. All International air travel, if required, will be by business class.

Requested documents to be printed in-house will be invoiced at the following rates: (excluding those for office use)

B/W Copy 8.5" x 11" – Bond	\$ 0.15
B/W Copy 11" x 17" – Bond	\$ 0.30
B/W Copy 18" x 24" – Bond	\$ 1.00
B/W Copy 24" x 36" – Bond	\$ 2.00
B/W Copy 30" x 42" – Bond	\$ 3.00
B/W Copy 36" x 48" – Bond	\$ 4.00
Color Copy 8.5" x 11"	\$ 1.00
Color Copy 11" x 17"	\$ 2.00
Color Plot 18" x 24"	\$ 15.00
Color Plot 24" x 36"	\$ 25.00
Color Plot 30" x 42"	\$ 35.00
Color Plot 36" x 48"	\$ 45.00
Color Pres. Plot 18" x 24"	\$ 25.00
Color Pres. Plot 24" x 36"	\$ 45.00
Color Pres. Plot 30" x 42"	\$ 70.00
Color Pres. Plot 36" x 48"	\$ 85.00

**ADDITIONAL SERVICES / STANDARD HOURLY RATES** If the Scope of Work or if the Consultant's service is substantially revised, the amount of total compensation shall be equitably be adjusted. Fees for requested additional services shall be computed at our standard hourly rates below or outlined under a separate proposal. Rates may be adjusted annually.

Senior Principal	\$ 190
Principal	\$ 190
Senior Transportation Associate	\$ 190
Senior Associate	\$ 155
Associate	\$ 140
Landscape Architect I	\$ 119
Landscape Architect II	\$ 108
Landscape Architect III	\$ 102
Landscape Architect IV	\$ 65
Urban Planner I	\$ 119
Urban Planner II	\$ 102
Urban Planner III	\$ 92
Urban Planner IV	\$ 65
Graphic Designer I	\$ 115
Graphic Designer II	\$ 100
Graphic Designer III	\$ 92
Graphic Designer IV	\$ 65
Administration	\$ 65

**RETAINER** The Client shall make an initial payment as defined in the attached proposal as a retainer upon execution of this agreement. This retainer shall be held by the consultant and applied against the final invoice.

**PAYMENT DUE** Invoices shall be submitted monthly, are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date. 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.

**SATISFACTION WITH SERVICES** Payment of any invoice by the Client to the Consultant shall be taken to mean that the Client is satisfied with the Consultant's services to the date of payment and is not aware of any deficiencies in those services.

**DISPUTED INVOICE** If the Client objects to any portion of an invoice, the Client shall so notify the Consultant in writing within ten (10) calendar days of receipt of the invoice. The Client shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement. Interest as stated above shall be paid by the Client on all disputed invoice amounts that are subsequently resolved in the Consultant's favor and shall be calculated on the unpaid balance from the due date of the invoice.

**INTEREST** If payment in full is not received by the consultant within forty-five (45) calendar days of the due date, invoices shall bear interest at one-and-one-half (1.5) percent of the past due amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to unpaid principal.

**SUSPENSION OF SERVICES** If the Client fails to make payments when due or otherwise is in breach of this agreement, the Consultant may suspend performance of services upon seven (7) days' notice to the Client. The Consultant shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this agreement by the Client. Upon payment in full by the Client or cures of the breach to the satisfaction of the Consultant, the Consultant shall resume services under this agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for the Consultant to resume performance.

**TERMINATION OF SERVICES** If the Client fails to make payment to the Consultant in accordance with the payment terms herein, this shall constitute a material breach of this agreement and shall be cause for termination of this agreement by the Consultant.

**TERMINATION OF AGREEMENT** This agreement may be terminated by either party upon ninety (90) days written notice with or without cause. 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 direct project expenses then due.

**MEDIATION** In an effort to resolve any conflicts that arise during the design or construction or the project or following the completion of the project, the Client and the Design Professional agree that all disputes between them arising out of or relating to this agreement shall be submitted to non-binding mediation unless the parties mutually agree

# TERMS AND CONDITIONS OF PROPOSAL



otherwise. The Client and the Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

**APPLICABLE LAW** Unless otherwise specified, this agreement shall be governed by the laws of the State of Ohio.

**ENTIRE AGREEMENT** 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.

**LIMITATION OF LIABILITY** To the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the Consultant and the Consultant's officer's, directors, partners, employees and any of them, to the Client and anyone claiming by and through the Client, for any and all claims, losses, costs or damages, including attorney's fees and costs and expert witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or the Agreement from any cause or causes shall not exceed the total compensation received by the Consultant under this Agreement, or the total amount of fifty thousand dollars (\$50,000), whichever is less. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

**UNAUTHORIZED CHANGES** 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.

**STANDARD OF CARE** In providing services under this Agreement, the Consultant will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

**OWNERSHIP OF INSTRUMENTS OF SERVICE** All reports, drawings, specifications, electronic files, field data, notes and other documents and instruments prepared by the Consultant as instruments of services shall remain the property of the Consultant. The Consultant shall retain all common law, statutory and other reserved rights, including the copyright thereto.

**OPINIONS OF PROBABLE CONSTRUCTION COST** In providing opinions of probable construction cost, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the Consultant's opinions of probable construction costs are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or negotiated cost of the Work will not vary from the Consultant's opinion of probable construction cost.

**INFORMATION PROVIDED BY OTHERS** The Client shall furnish, at the Client's expense, all information requirements, reports, data, surveys and instructions required by this Agreement. The Consultant may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.

**DELIVERY OF ELECTRONIC FILES** In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the Consultant, the Client agrees that all such electronic files are instruments of service of the Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights.

The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project for which they were prepared. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant. The Client further agrees to waive all claims against the Consultant resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Consultant.

Electronic files furnished by either party shall be subject to an acceptance period of ten (10) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files. The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the Consultant and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and sub-consultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the Consultant or from any reuse of the electronic files without the prior written consent of the Consultant. Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

**SEVERABILITY** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

**SURVIVAL** Notwithstanding completion or termination of this Agreement for any reason, all rights, duties and obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

**ASSIGNMENT** Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to sub-consultants normally contemplated by the Consultant shall not be considered an assignment for purposes of this Agreement.

**PROPRIETARY INFORMATION** The Client agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by the Consultant pertaining to this Project or this Agreement shall be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of the Consultant.

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**ADA COMPLIANCE** The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility that does not meet the accessibility and usability requirements of the ADA unless it can be demonstrated that it is structurally impractical to meet such requirements. The Client understands that the requirements of the ADA will be subject to various and possibly contradictory interpretations. The Consultant, therefore, will use its reasonable professional efforts and judgment to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project. The Consultant, however, cannot and does not warrant or guarantee that the Client's Project will comply with all interpretations of ADA requirements and/or requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

**CORPORATE PROTECTION** It is intended by the parties to this Agreement that the Consultant's services in connection with the Project shall not subject the Consultant's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, an Ohio corporation, and not against any of the Consultant's individual employees, officers or directors.

**DEFECTS IN SERVICE** The Client shall promptly report to the Consultant any defects or suspected defects in the Consultant's services of which the Client becomes aware, so that the Consultant may take measures to minimize the consequences of such a defect. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Failure by the Client and the Client's contractors or subcontractors to notify the Consultant shall relieve the Consultant of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

**CONSEQUENTIAL DAMAGES** Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or sub-consultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

**CHANGED CONDITIONS** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the Consultant may call for re-negotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating re-negotiation, and the Consultant and the Client shall promptly and in good faith enter into re-negotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement, in accordance with the Termination provision hereof.

**DEFINITION OF 'HAZARDOUS MATERIALS'** As used in this Agreement, the term hazardous materials shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.

**HAZARDOUS MATERIALS – SUSPENSION OF SERVICES** Both parties acknowledge that the Consultant's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Consultant or any other party encounters any hazardous or toxic materials, or should it become known to the Consultant that such materials may be present on or about the job site or any adjacent areas that may affect the performance of the Consultant's services, the Consultant may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the job site is in full compliance with all applicable laws and regulations.

**HAZARDOUS MATERIALS INDEMNITY** The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, partners, employees and consultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of the Consultant.