

RESOLUTION NO. 29-16
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Jeanne Rau ON THE 18th
DAY OF April, 2016.

A RESOLUTION AUTHORIZING THE CITY MANAGER, ON BEHALF OF
THE CITY OF CENTERVILLE, TO ENTER INTO AN AGREEMENT WITH
THE KLEINGERS GROUP, INC. FOR CONSULTING SERVICES.

WHEREAS, the City of Centerville has been awarded a grant from the
Montgomery County Land Reutilization Corporation ("Land Bank") to conduct a
Planning Study of the Centerville Place Shopping Center located at 1023 to 1093 South
Main Street and its immediate environs, and

WHEREAS, the City of Centerville has chosen The Kleingers Group, Inc. to
conduct the Planning Study on behalf of the City of Centerville.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
RESOLVES:

Section 1. That the City Manager be and is hereby authorized to execute an
Agreement between the City of Centerville and The Kleingers Group, Inc. to govern the
expenditure of funds in association with a Planning Study of the Centerville Place
Shopping Center, a copy of said Agreement is attached hereto, incorporated herein,
marked Exhibit "A".

Section 2. This Resolution shall take effect at the earliest date allowed by law.

PASSED THIS 18th day of April, 2016

Bruce A. Compton
Mayor of the City of
Centerville, Ohio

ATTEST:

Cara R. Andrews
Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 29-16, passed by the Council of the City of Centerville, Ohio on the 18th day of April, 2016.

Cain R. Andrews
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

South Main Street Properties
Master Plan Project

Terms and Conditions

Services Provided. The Kleingers Group, Inc., hereinafter referred to as the "Consultant", agrees to perform the professional master planning services for the properties located from 1023 South Main Street through 1093 South Main Street and being further outlined in the attached Exhibit A "Scope of Work" for the City of Centerville, Ohio, hereinafter referred to as the "Client."

Compensation. Based upon the attached Scope of Work, Client agrees to pay Consultant Fifteen Thousand Two Hundred Dollars (\$15,200.00) as stated in the attached Exhibit "A" "Scope of Work". Client will be invoiced each month for any work performed during the period. The invoices will be based on the percentage of the scope of work completed in the period multiplied by the project fee for that scope of work. Payment is due within 30 days of receipt of invoice. Accounts outstanding past 30 days every month thereafter will be subject to a 1.5% service charge on the unpaid balance monthly.

Standard of Care. Consultant agrees to provide professional services to a standard of care that would be reasonably and professionally exercised by reputable planning and zoning professionals practicing in the same or similar locality and under similar circumstances. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Additional Services. Any requested changes beyond the initial Scope of Work made by Client will be considered extra work and may negatively impact the stated project timeline. Consultant will notify Client in writing of any changes to the Scope of Work requiring additional fees and will provide Client with an estimate of those fees prior to proceeding with the work.

Force Majure. Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence, such as natural disasters and "Acts of God."

Termination of Contract. In the event of termination of this Agreement by either party, the Client shall within fifteen (15) calendar days of termination pay the Consultant for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions of this Agreement. The Client may terminate this Agreement for the Client's convenience and without cause upon giving the Consultant not less than seven (7) calendar days written notice. Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days written notice for any of the following reasons:

- Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;
- Suspension of the Project or the Consultant's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate;
- Material changes in the conditions under which this Agreement was entered into, the Scope of Work or the nature of the Project, and the failure of the parties to reach an agreement on the compensation and schedule adjustments necessitated by such changes;

Indemnification and Limitation of Liability. The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client and its employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultants negligent performance of professional services under this Agreement and that of its sub-consultants or anyone for whom the Consultant is legally liable.

In addition, the Client agrees that, to the fullest extent permitted by law, no shareholder, officer, director, principal or employee of the Consultant shall have personal liability under this Agreement, or for any matter in connection with the professional services provided with the Project. Consultant shall not be obligated to indemnify Client in any manner whatsoever for the Client's own negligence.

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 nor shall they 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 revenue, 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.

Dispute Resolution. In an effort to resolve any conflicts that may arise during the Project, the Client and the Consultant agree that all disputes between them arising out of or in relation to this Agreement or the Project shall be submitted to nonbinding mediation if the parties mutually agree to do so. 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 their subconsultants, thereby providing for mediation as the primary method for dispute resolution. If a dispute is not resolved after mediation, the matter shall be processed through any court having jurisdiction thereof.

Ownership and Copyright of Documents. Reuse or modification of any Consultant produced document by Client shall be at Client's sole risk.

Publicity. Consultant has the right to use any portion of the Project's documents in the promotion of the professional practice through advertising, public relations, future proposals and requests for qualifications, brochures or other marketing materials.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

Severability. If any term or provision hereof is illegal or invalid for any reason whatever, such illegality of invalidity shall not affect the validity of the remaining terms of this Agreement.

Assignment of Agreement. 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 subconsultants normally contemplated by the Consultant shall not be considered an assignment for purposes of this agreement.

The parties hereto agree that, pursuant to this agreement, Consultant is an independent contractor and not an employee or partner of Client. As such, Consultant is solely responsible for

the payment of all applicable taxes including, but not limited to, applicable income taxes, self employment tax, medicare tax, worker's compensation and unemployment compensation. Since Consultant is an independent contractor and not an employee entitled to the protections afforded public employees under Chapter 2744, Ohio Revised Code, City may cause Consultant to be added as an additional insured on its liability insurance policy.

Signatures. The individual signing this Agreement represents that they are duly authorized to execute this Agreement on behalf of the City of Centerville, Ohio, for the payment of the amounts specified herein. The individual signing on behalf of Client represents he has full authority to sign on behalf of Client.

AUTHORIZATION TO PROCEED

Please proceed with the work outlined above in accordance with this proposal. Client agrees to the terms and conditions of this proposal.

CITY OF CENTERVILLE, OHIO

By: _____ Date: _____

Its _____ Date: _____

THE KLEINGERS GROUP, INC.

By: _____

Its _____ Date: _____

APPROVED AS TO FORM:

Municipal Attorney

EXHIBIT "A" SCOPE OF WORK

Project Understanding:

This project will create a vision book for the 25 acre redevelopment site located from 1023 South Main Street through 1093 South Main Street in the City of Centerville, Ohio. The due diligence information, proposed site and architectural visioning imagery and master plan layouts will be used to both inform the City and property owner. The deliverables can also be used in the marketing of the property to end users and future developers / users of the site. Using existing GIS base mapping layer data provided by the City, the master base map will be produced. All relevant documents and previous studies will be reviewed and incorporated as necessary. The site opportunities and constraints will be highlighted on the base map and in a report.

Working closely with the Steering Committee in a design Charrette format, we will create up to three preliminary master plan layouts for the site. We will also create block style building massing 3D renderings for each layout. Ultimately we will package all the plans, site imagery and other documents into a Master Plan Vision Book to be used as the final deliverable.

The project team will consist of:

Jay Stewart, Esq, AICP
Project Manager
(Land Planning, Zoning & Development Financing)

Lynne Nischwitz, RLA
Landscape Architect
(Site, Landscape and Streetscape Design)

Dave Marshall, PE
Civil Engineer
(Site Civil Engineering)

Jay, Lynne and Dave are senior level personnel who routinely work on larger scale complex mixed use site planning and design projects. The team members have worked on numerous private redevelopment projects throughout SW Ohio. If needed, we can also include a desktop review of preliminary environmental items affecting the property including a wetlands and stream review. This work would be performed by Mike Waligura with O'Brien Gere Consultants. (See *attached resumes*)

Following is a list of items we will address under this scope of work:

Site Civil Due Diligence Tasks:

- Incorporate the relevant GIS data layers into the base map.
- Identify potential off-site site access points.
- Identification of adjacent land use issues.
- Provide a preliminary stormwater approach for the site (amount of area needed for water storage and identify the most strategic location on the site).
- Review available soils data & floodplain maps.
- Analyze available covenants, deed restrictions and easements affecting the site as provided by Client.

Environmental & Streams/Wetlands Due Diligence Tasks:

- Review preliminary desk-top information for the site regarding potential wetlands and other waters of the U.S. that may be present on-site and could impact development plans. Desk-top environmental information data review will include: soils information, historic aerial photographs, National Wetland Inventory (NWI) data, and USGS topographic maps.

Master Plan Layout + Master Plan Vision Book

Kleingers will work with the Steering Committee to generate up to three preliminary master plan layouts of the 25 acre site. These plans will be transformed into one preferred master plan layout for the site. Through this collaborative design charrette process with the Steering Committee, we will produce the preferred master plan layout which will be color rendered and delivered in a sketch style format.

Master Plan Layouts (2 or 3 layouts)

The following elements will appear on the preferred master plan layout:

- The site will show potential commercial building footprints and areas labeled as parking fields.
- The master plan layouts will explore using both surface and structured parking.
- Provide a 3D rendered plan showing building massing for the 2 or 3 layouts. The level of detail for the buildings / structures will be "block" style massing without specific architectural or material details shown. Those details will be illustrated using imagery sheets.
- The plan will show buffering and concept landscaping.
- We will provide a concept alignment for the primary access points into the site and show the major internal roadway(s) and/or drive aisles serving the site.
- Storm water facility management for the site will be preliminarily calculated for each layout and any on-site retention/detention facility will be identified on the layouts.
- *This scope of work does not include designing the detailed parking stall configurations on the master plan layouts. However, we will perform the parking space analysis, drive aisle width, etc. standards to arrive at the total area required for parking for each retail / commercial site.*

Final Master Plan Vision Book

The final master plan vision book will include the following elements:

- Community vision statement.
- Development principles for the site.
- Document existing site conditions / site due diligence items.
- Demographic and market data, as provided by the City.
- Two or three master plan layouts of the site. (plan view, hand sketch style)
- Building massing (block style) rendering for each layout (3D Sketch-up view)
- Imagery sheets illustrating the desired look and feel for both the site design elements and architectural design / style elements for the project.
- One preferred Master Plan layout, color rendered and delivered in perspective hand sketch format.

Project Meetings

Staff Meeting #1 - Project Kick-Off meeting with Staff to discuss approach, schedule, base map, etc.

Steering Committee Meeting #1 – Meet with the Steering Committee and facilitate a 3 hour master planning Design Charrette for the 25 acre site. The goal of this meeting is to go over project house-keeping items, define the project goals and gain direction and input needed to create 2 or 3 preliminary master plan site layouts.

Steering Committee Meeting #2 – Meet with the Steering Committee and facilitate a 2 – 3 hour master planning Design Charrette for the 25 acre site. The goal of this meeting is to discuss and brainstorm edits to the 2 or 3 preliminary master plan site layouts.

Staff Meeting #2 – Meet with Staff to review the final set of deliverables and make any final edits.

Project Deliverables

Master Plan Vision Book - The items below will be included in a bound Master Plan Vision Book:

- Up to Three Preliminary Master Plan Layouts
- One Preferred Master Plan Layout (full color rendered master plan) in PDF and 11x17 hard copies.
- Site Civil Due Diligence Summary Report
- Desktop Environmental Summary Report (includes desktop review of streams & wetlands review)
- Zoning Due Diligence Summary Report highlighting key zoning code items affecting the property.
- Site Amenity and Architecture Design Standards as illustrated through project imagery sheets.
- Up to 15 copies of the Master Plan Vision Book will be delivered.

Other Deliverables:

- One Presentation Board Mounted Master Plan (up to 30" x 42" format)
- All deliverables will be made available in PDF format.

Schedule

Kleingers can commit to completing this scope of work in an 8 week period with the starting date of the project kick-off meeting.

Total Project Fee (*not to exceed*) = \$15,200

Scope of Work Notes:

- *GIS Basemap & Aerial / GIS Topo Map Data – Provided by City of Centerville*
- *No land survey is provided within this scope of work.*