

RESOLUTION NO. 60-22
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Duke Lunsford ON THE
15th DAY OF August, 2022.

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL
DESIGN AND ENGINEERING SERVICES WITH MODA4
DESIGN, LLC FOR THE YANKEE TRACE PATIO
EXPANSION PROJECT.**

WHEREAS, the City owns the Golf Club at Yankee Trace and is planning an expansion of the patio (the “Project”); and

WHEREAS, the City has added to the scope of requested work to include kitchen improvements, window and door replacement and additional construction management support; and

WHEREAS, the City desires to renovate and expand the clubhouse at Yankee Trace patio and desires architectural and interior environmental design support for the Project; and

WHEREAS, the City of Centerville is further desirous of obtaining professional design and engineering services to assist the City with predesign, site survey and design development; and

WHEREAS, MODA4 Design, LLC, has unique knowledge of such work and has the demonstrated ability to assist in accomplishing the objectives of the City; and

WHEREAS, the change order for additional work will add an additional cost of \$54,625 for a total Project cost for MODA4 Design, LLC of \$193,075.00.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF
THE CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO, AS
FOLLOWS:**

Section 1. The City hereby agrees to enter into an Agreement with MODA4 Design, LLC; and the City Manager is hereby authorized to execute the Agreement with MODA4 Design, LLC, in a form substantially similar to the Agreement attached hereto as Exhibit “A” and incorporated herein on behalf of the City of Centerville.

Section 2. This Resolution shall be in full force and effect at the earliest date allowed by law.

PASSED THIS 15th day of August, 2022.



Mayor of the City of Centerville, Ohio

ATTEST:



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. 60-22, passed by the Council of the City of Centerville, Ohio on the 15th day of August, 2022.



Clerk of the Council

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



PROFESSIONAL SERVICES PROPOSAL

Price quote date: May 7 2021

Client: City of Centerville
100 West Spring Valley Road
Centerville, Ohio 45458

And: MODA4 Design, LLC.
23 Wayne Ave.
Dayton, OH 45402

For the Project: Job 21016 - Yankee Trace Patio Expansion; RVSD 051321; AS 070722

1. PROJECT UNDERSTANDING

MODA4 Design, LLC, (MODA4) understands the project to be a renovation & expansion of the existing clubhouse at Yankee Trace. The main portion of the work is to be concentrated on the rear patio with additional work to involve small areas of the existing interior bar/kitchen area, fireplace at ballroom, openings at existing dining area, entry courtyard (adjusting existing ramp/slope(s)), grassed island near driving range for observation area, and majority window replacement. Majority of scope depicted in schematic plan SD02/04.13.21 by MODA4 Design. Initial construction budgeting set at +/- \$1.5M minimum. Scopes include architectural and interior environmental design support for site verification/existing conditions, design development, construction/permit/bid documentation, bid administration, and construction contract administration. Additional engineering consultation to include Civil, Plumbing, Mechanical, and Electrical engineering. Fire Protection, low voltage design is anticipated as design-build as part of the selected subcontractor's scope.

2. DESIGNER'S SCOPE

PHASE 1 – PREDESIGN SERVICES / SITE SURVEY / DUE DILIGENCE

- Client meetings & preliminary review of scope definition (completed under separate scope).
- Review of local jurisdiction's code requirements & zoning standards and submittal timing and processes.
- Site Verification: Visit existing building to inventory existing conditions (up to 4 ppl). Information will be taken and entered into CAD for use in developing the design & construction documents. Owner to provide any existing building/space information that is known available prior to visit.
- Update base CAD file(s) with discovered field conditions and provide file(s) to client & client's vendors.
- Initial construction estimate based upon preliminary scopes.

PHASE 2 - DESIGN DEVELOPMENT

- Based upon the existing site criteria (survey) information provided by MODA4 in section 1, Client's design group will create an initial (schematic) environmental design and desired floor plan. MODA4 will review and finalize the design plans and submit to Client for approval prior to documentation phase. MODA4 shall review layout for code compliance and potential site conflicts.
- Assist client in selection of product specifications & finish selections
- Interior Environment & Furniture "directioning" (Client will coordinate and source furniture vendor(s))
- Provide Virtual Reality modeling to visualize & experience the designed space/finishes.
- Photo-realistic 3D renderings (stills) can be provided

PHASE 3 – CONSTRUCTION DOCUMENTATION

- MODA4 will create completed Architectural construction documentation, including coordinated Mechanical, Electrical & Plumbing (MEP) engineering documentation, and submit the drawing set to the appropriate parties for approval, bidding, and construction.

::Civil Engineering scope:

- Existing conditions survey of project area. This includes the back of the club house-picking up the building, cart path, walls, a portion of the practice green, and any project-affected underground utilities (storm sewer)
- A civil construction detail drawing set showing any demolition that might occur along the rear of the building. Site/Grading plan showing any modifications that may be required to surface and sub-surface elements being affected by new construction.

::Structural Engineering drawings incorporating design and specifications for the following items:

- Patio foundation/retaining walls
- New covered dining and bar areas

::MEP Scope of services include the following:

Fire Protection

- Modify existing sprinkler system to provide coverage to new enclosed area. Note: NZ drawings will define area of work and scope of services for a sprinkler contractor. Final permit drawings shall be by the sprinkler contractor.

Plumbing

- Provide new sinks in the outdoor bar area with connection to existing water and sanitary systems. (Does not include plumbing in the new enclosed dining area-no plumbing anticipated).
- Provide natural gas to the outdoor fire place.
- Provide natural gas to patio grille

HVAC

- Modify existing air distribution system, adding terminal units for the new enclosed area.
- Provide electric heating in the enclosed bar area

Effort includes a review of the existing HVAC components and their size/ability to serve the new areas. Fee assumes existing systems are sized appropriately; we do not include redesign of any central HVAC equipment.

Electrical

- Provide new lighting in enclosed area.
- Provide general power to new enclosed area.
- Extend existing fire alarm system into new enclosed area.
- Provide power and lighting in the new bar.
- Provide lighting at/around the outdoor patio
- Provide power to viewing area near driving range

::Landscape Architecture Scope:

- Site visit to review existing plant materials to ensure the proposed landscape reflects existing landscape.
- Include Design/Build irrigation modifications/expansion.
- Retaining/Screening walls with Design Team input.
- New Landscape plans/specification drawings

PHASE 4 – ENTITLEMENT/BIDDING

- MODA4 to provide necessary documents and applications to submit for permitting, and answer and modify plans as needed from the local authority comments limited to building code compliance. MODA4 is not responsible for any associated submittal or review fees/expenses.
- MODA4 will attend a pre-bid meeting and review/analyze final bids with the client

PHASE 5 – CONSTRUCTION ADMINISTRATION

- Review/issue clarifications for reasonable RFIs from the contractor, as required, and shall prepare and distribute drawing revisions for minor modifications or clarifications of the work documented.
- Shop drawing/submittal review(s)
- Provide latest issuance documentation of the project in AutoCAD format upon final invoice payment
- (4) On-site construction meetings
- (4) Site inspections and GC pay request reviews.

3. COMPENSATION:

PHASE 1-Predesign	8,925.00
Architectural/Landscape/Site verification & CAD/BIM conversion	8,925.00
 PHASE 2-Design Development	 19,500.00
Interior Design, FFE Support, VR & Renderings, Product Selection, & Design Refinement	19,500.00
 PHASE 3-Construction Documentation	 97,025.00
Architectural & Interiors Documentation	40,625.00
PME Design & Documentation	29,700.00
Structural Design & Documentation	13,900.00
Landscape Architect Design & Documentation	5,100.00
Civil Design & Documentation	7,700.00
 PHASE 4-Entitlement/Bidding	
Included in Phase 5	0.00
 PHASE 5-Construction Contract Administration	 13,000.00
	13,000.00
 ADD SERVICE #1-Window Replacement CD/CA	 9,875.00
Creation, bid management & CA for separated window replacement project	
Documentation/Bid Set & Construction Admin	9,875.00
 ADD SERVICE #2-Wall Openings/Kitchen Eqpm/Hood RVSNS	 32,250.00
Design & Documentation adjustments for scope changes	
ARCH design/documentation & vendor coordination	11,250.00
PME Design & Documentation	16,500.00
Structural Design/Documentation (Estimated)	4,500.00
 ADD SERVICE #3-Client Representative/PM	 12,500.00
Added Scope includes Client Construction Project Management Support. MODA4 to provide additional direction/coordination with selected GC; minimum of 1 site meeting per week to evaluate construction progress and accuracies.	
	12,500.00
	193,075.00

Standard Hourly Rate Schedule:

Administrative-\$65 per hour
CAD Technician-\$85 per hour
Interior Designer-\$90 per hour
Project Coordinator-\$105 per hour
Project Director-\$125 per hour
Senior Project Director-\$155 per hour
Principal Architect-\$195 per hour

4. TERMS AND CONDITIONS

A. This Agreement for professional services has been entered into by the Client, and MODA4 Design, LLC. (MODA4). The name MODA4 shall pertain to all employees, officers, directors, and all divisions of MODA4 Design, LLC. This Agreement shall be governed by the law of the location of the Project. Neither party can assign this Agreement without the other party's written permission.

1. Performance of Services: MODA4 shall perform the basic services as outlined above, and any additional services as required or directed by the Client in consideration of the fee arrangements and payment terms described in "Compensation" above.

2. Excluded Services: Other services available from MODA4 and applicable to the project have been made known and explained to the Client. Where MODA4 has deemed a service needed or advisable, MODA4 has made this opinion known to the Client and the Client has confirmed his or her opinion that such services are not requested of MODA4 and/or the Client has made or shall make arrangements to obtain those services from a source other than MODA4. These excluded services include:

- Providing financial feasibility or other special studies.
- Providing extraordinary services to investigate existing conditions or facilities or to make measured drawings thereof.
- Providing formal life-cycle cost studies of mechanical and/or electrical systems.
- Providing revisions of drawings, specifications or other documents when such revisions are required by changes to previously approved design criteria or revisions required by owner or contractor deviations made during the construction phase that were not approved by architect prior.
- Energy Compliance Certification
- LEED Documentation
- Audio/visual, signage, security, or specialized technology Design/Documentation

3. Verification of Existing Conditions: MODA4 shall not be required to sign any documents, no matter by whom requested, that would result in MODA4 having to certify, guarantee or warrant the existence of conditions whose existence MODA4 cannot ascertain.

4. Betterment: If, due to the design professional's error, any required item or component of the project is omitted from the Construction Documents produced by MODA4, MODA4's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents. In no event will MODA4 be responsible for any cost or expense that provides betterment, upgrade or enhancement of the project.

5. Indemnification: Deleted

6. Limitation of Liability: In recognition of the relative risks and benefits of the project to both the Client and MODA4, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of MODA4 and their subconsultants to the Client and to all construction contractors and subcontractors on the project for any and all injuries, claims, losses, expenses, damages of any nature whatsoever or claims expenses arising out of this agreement from any cause or causes, so that the total aggregate liability of MODA4 and their subconsultants to all those named shall not exceed MODA4's total fee for services rendered on this project. Such claims and causes include, but are not limited to design

professional's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

7. **Jobsite Safety:** Neither the professional activities of MODA4, nor the presence of his or her employees and subconsultants at a construction site, shall relieve the Contractors and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing or coordinating all portions of the Work of construction in accordance with the contract documents and any health/safety precautions required by regulatory agencies. MODA4 and their personnel have no authority to exercise any control over any contractor or other entity or their employees in connection with their work or any health/safety precautions. The Client agrees that the Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, MODA4 and MODA4's consultants shall be indemnified and shall be made additional insureds under the General Contractor's general liability insurance policy.

8. **Hazardous Materials:** Both parties acknowledge that MODA4's scope of services does not include any services related to asbestos, hazardous or toxic materials. In the event MODA4 or any other party encounters asbestos or hazardous or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of MODA4's services, MODA4 may, at their option and without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos, hazardous or toxic materials and warrant that the jobsite is in full compliance with applicable laws and regulations. MODA4 is not responsible for any claims resulting from the existence, discovery, or for the removal of hazardous materials or additional costs the removal will necessitate.

9. **Information Provided by Others:** MODA4 shall indicate to the Client the information needed for rendering of services hereunder. The Client shall provide to MODA4 such information as is available to the Client and the Client's consultants and contractors, and MODA4 shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for MODA4 to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing.

10. **Opinions of Probable Costs:** In providing opinions of probable cost, the Client understands that MODA4 has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinions of probable construction costs provided herein are to be made on the basis of MODA4's qualifications and experience. MODA4 makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs. MODA4 shall be compensated as Additional Service, as provided for herein, for all time spent to review, redesign and to incorporate revisions due to probable costs.

11. **Value Engineering:** If the Client retains the services of a Value Engineer (VE) or allows the General Contractor or any of his or her subcontractors to function as a VE to review the Construction Documents prepared for this project by MODA4, it shall be at the Client's sole expense and shall be performed in a timely manner so as not to delay the orderly progress of MODA4's services. All recommendations of the VE shall be given to MODA4 for their review, and adequate time will be provided for MODA4 to respond to these recommendations. MODA4 shall be compensated as Additional Service, as provided for herein, for all time spent to review the recommendations of the VE and to incorporate those accepted by both the Client and MODA4. If MODA4 objects to any recommendations made by the VE, MODA4 shall so state in writing to the Client, along with their reasons for objecting.

12. **Unauthorized Changes:** In the event the Client consents to, allows, authorizes or approves of changes to the Construction Documents, and these changes are not approved in writing by MODA4, the Client recognizes that such changes and the results thereof are not the responsibility of MODA4. Therefore, the Client agrees to release MODA4 from any liability arising from the construction, use or result of such changes.

13. **Design without Construction Phase Services:** It is understood and agreed that MODA4's Basic Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided by the Client. The Client assumes all responsibility for interpretation of the Contract Documents and for construction observation and supervision and waives any claims against MODA4 that may be in any way connected thereto.

14. **Changed Conditions:** The Client shall rely on MODA4's judgment as to the continued adequacy of



this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to MODA4. Should MODA4 call for contract renegotiation, MODA4 shall identify the changed conditions necessitating renegotiation and MODA4 and the Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.

15. Defects in Service: The Client shall promptly report to MODA4 any defects or suspected defects in MODA4's work or services of which the Client becomes aware, so that MODA4 may take measures to minimize the consequences of such a defect. The Client warrants that he or she will impose a similar notification requirement on all contractors in his or her Client/Contractor contract and shall require all sub-contracts at any level to contain a like requirement. Failure by the Client, and the Client's contractors or subcontractors to promptly notify MODA4, shall relieve MODA4 of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given.

16. Dispute Resolution: Any claims or disputes between the Client and MODA4 arising out of the services to be provided by MODA4 or out of this Agreement shall, as a condition precedent to litigation, be submitted to non-binding mediation. The Client and MODA4 agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, providing for mediation as the primary method for dispute resolution among all parties.

17. Deleted

18. Deleted

19. Termination of Services: This Agreement may be terminated at any time by either party should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, the Client shall pay MODA4 for all services rendered to the date of the termination, and all reimbursable expenses incurred prior to termination and reasonable termination expenses incurred as a result of termination.

5. TERMS AND CONDITIONS FOR THE COLLECTION OF PROFESSIONAL SERVICE FEES

A. Payments are due and payable upon receipt of invoice. Amounts unpaid thirty (30) days after invoice date shall bear interest from the date payment is due. A statutory rate per month will be charged on all past-due amounts, unless not permitted by law, in which case, interest will be charged at the highest amount permitted by law. MODA4 Design reserves the right to suspend any work and withhold deliverables until past-due invoices are paid in full.

B. Collection Costs: In the event legal action is necessary to enforce the payment provisions of this Agreement, MODA4 shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by MODA4 in connection therewith and, in addition, the reasonable value of MODA4's time and expenses spent in connection with such collection action, computed at MODA4's prevailing fee schedule and expense policies.

C. Suspension of Services: If the Client fails to make payments when due or otherwise is in breach of this Agreement, MODA4 may suspend performance of services upon five (5) calendar days' notice to the Client. MODA4 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.

D. Reimbursable Expenses: Reimbursable expenses (travel, meals, reproduction, etc) will be transferred to the owner at a rate of 1.00x.

Best regards,
Jason Sheets
MODA4 Design

Client signature: _____

Date: _____

APPROVED AS TO FORM:

Scott A. Liberman, Municipal Attorney