

## **PUBLIC NOTICE**

### **COMMUNITY DEVELOPMENT COMMITTEE MEETING**

*Chair: Ted Haskins*

*Committee Members: Kyle Mitchell, Ben Redman*

**Monday, August 10, 2020 at 4:30 p.m.**

**Council Chambers, 745 Center Street, Milford Ohio**

### **AGENDA**

Call to Order

Proceedings: Approval of the March 11, 2020, Community Development Committee Minutes

Agenda Items:

- Discussion: LWC Grant Funds for Riverside Park Walking Path vs CDBG Reimbursement
- Quote for Design/Engineering/Bid Services for Riverside Park Walking Path
- Discussion: Possible parking lot expansion at Jim Terrell Park
- And all additional matters that may properly come before the committee

Adjourn



[www.kleingers.com](http://www.kleingers.com)

August 4, 2020

City of Milford  
745 Center Street, Suite 200  
Milford, OH 45150

**ATTN:** Mr. Michael Doss  
City Manager

**RE:** Proposal for Professional Site Design Services  
Riverside Park Walking Path Project  
City of Milford, Ohio

Dear Mr. Doss:

Thank you for giving The Kleingers Group the opportunity to provide you with this proposal for site engineering services for the work associated with the proposed walking path at Riverside Park. We enjoyed working with the City on the master planning of this site, and we are excited to work with you and your team to see the walking trail come to fruition.

This letter is intended to communicate our understanding and expectations for the project as well as outline our proposal approach for completing the work and any assumptions we have made while preparing the proposal. The following sections provide a summary of the project, proposed scope of services, corresponding fee structure, timing, and other related project information. Should you have any questions or concerns, please feel free to contact us so we can discuss and refine the proposal to better suit your needs.

We look forward to working with you on this project. Thank you and have a great day!

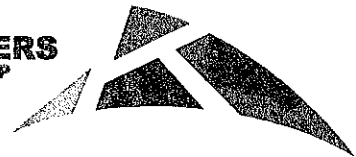
Sincerely,

**THE KLEINGERS GROUP**

Joshua P. Shaw, PE  
Project Manager

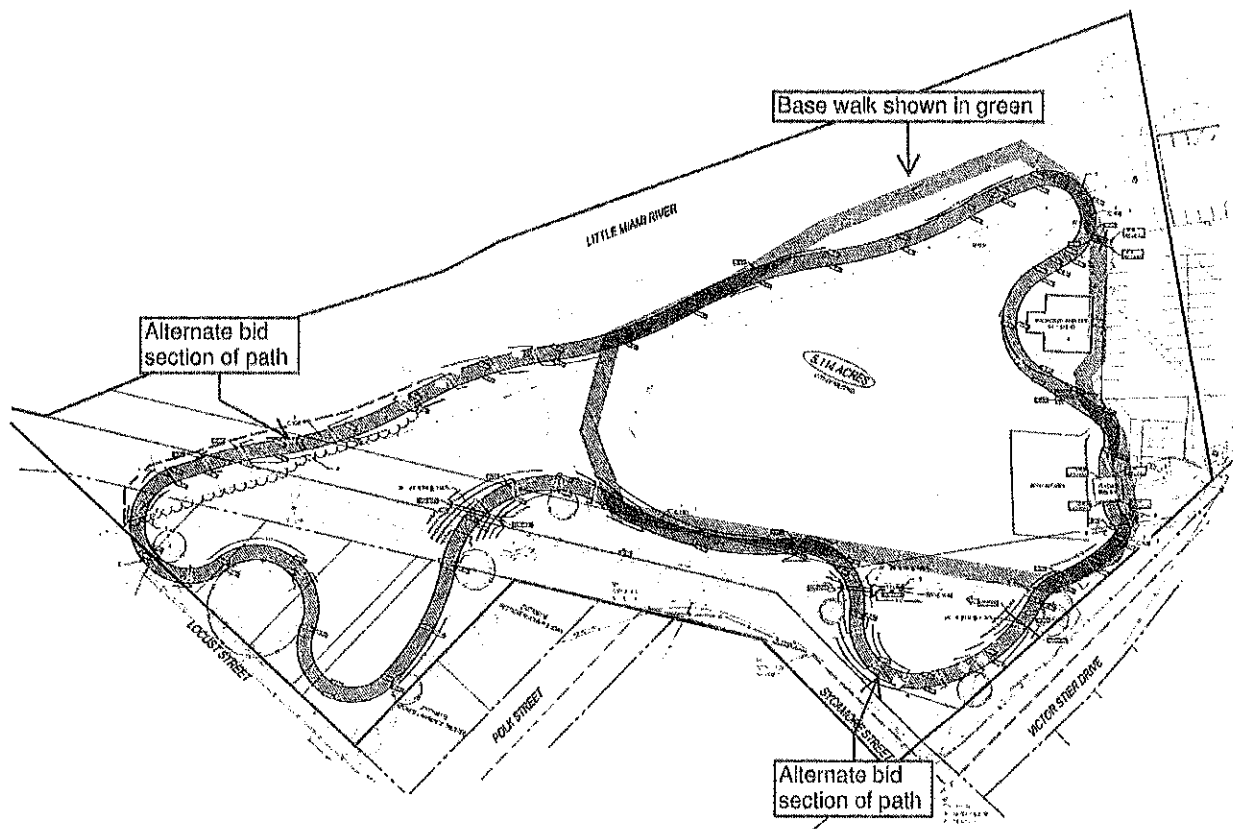
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JOB #: 140180.049  
REF# 1.0



## Project Summary

The proposed walking path is estimated at approximately 0.25 miles in length as shown in green on the sketch below. We also understand that the City desires to obtain alternate prices to extend the path to areas shown in gray. We understand that the intent of the project is to construct the walking path only, excluding all other master plan improvements. Therefore, this proposal includes the site design scope associated with the walking path only.



## PROJECT APPROACH

Surveying scope has already been completed in a previous phase of the project, however due to the additional clearing, we need to obtain additional topographic information. The survey utilized GIS information for property and R/W lines, and we assume that this will be sufficient for the purposes of designing the walking trail. Therefore, all boundary surveying scope is excluded from this proposal.

On the design side, we will work closely with the City early in the process to develop a strategy for the specific design and layout for the proposed walking trail.

We assume that zoning is clear for the proposed walking trail, and therefore, we have excluded scope associated with zone changes and variances from this proposal.

Based on our preliminary assessment, we assume that stormwater detention will not be required for the project, as the affected area is relatively small and it is directly adjacent to the Little Miami River.



The following pages outline the specific scope of services included with this proposal.

## Scope of Services

### 1 – LIMITED TOPOGRAPHIC SURVEY OF CLEARED AREA

- A. Establish horizontal and vertical control based on previous surveys performed by The Kleingers Group. Vertical control will be based on Clermont County and/or City of Milford standards. A minimum of 1 vertical benchmark(s) will be established on or near the site.
- B. Locate and identify visible physical features (buildings, roads, drives, walks, walls, fences, signs, etc.) within the project limits as shown on attached sketch. Isolated trees (8" and larger) and the perimeter outline of wooded areas will also be located.
- C. Determine spot elevations of critical features (finish floor levels at door openings, curbs, walks, tops, toes, swales, etc.) and at sufficient intervals throughout the site to develop 1-foot contours.
- D. Locate field utility markings and visible field evidence (manholes, valves, etc.) of underground utilities.
- E. Add to the existing topographic base map, depicting the above items at an appropriate scale, in AutoCAD format.

**Proposed Fee: Limited Topographic Survey ..... \$1,500**

### 2 – SITE ENGINEERING

- A. Location Plan – Site location/layout plan of proposed improvements:
  - Dimensions for the location of the improvements.
  - Appropriate general notes and details, including walking path pavement.
  - Location of proposed improvements and existing structures to remain and their distance from street rights of way.
- B. Grading and Drainage Plan – provide a detailed site plan showing grading and drainage, including:
  - Local storm sewer design, including pipe size, slope, elevations, and structure types.
  - Design of proposed detailed grading includes pertinent spot elevations.
  - Design of temporary and permanent erosion control measures including silt fence and inlet protection.
  - Applicable erosion control notes & details.
  - Design of the storm emergency flood route.
  - With the affected area being less than one acre, we assume that water quality volume calculations and construction will not be required.
  - Applicable standard details as required.

**Proposed Fee: Site Engineering ..... \$6,500**

### 3 – BID BOOK PREPARATION

In Microsoft Word format, prepare bid book for the project. We understand that the City will sell plans, administer, and open bids for the project.

**Proposed Fee: Bid Book Preparation ..... \$1,800**



#### 4-- CONSTRUCTION ADMINISTRATION -- IF AUTHORIZED

- Assist in construction administration by addressing contractor questions, responding to civil related RFI's, and reviewing civil related shop drawings. In addition, The Kleingers Group will:
- Perform site observation visits for each site and provide written reports.

Attend on-site or other location progress meetings, as requested.

**Proposed Fee: Construction Administration, If Authorized ..... \$Hourly**

#### Summary of Base Fees

Item	Scope Description	Base Fee
1	Limited Topographic Survey	\$1,500
2	Site Engineering	\$6,500
3	Bid Book Preparation	\$1,800
<b>Total</b>		<b>\$9,800</b>

\*Construction Administration services if authorized are proposed at our standard hourly rates.

#### Expenses

- ☒ Routine non-labor expenses are included in the proposed fees outlined in the Scope of Services.
- ☐ Routine non-labor expenses will be billed to the Client as reimbursable costs within the allowance outlined in the Scope of Services at a rate equal to 110% of the actual direct cost.

Routine non-labor expenses include printing of deliverables outlined in the Scope of Service, typical client meeting materials, routine copies, mileage to and from project sites and Client's office(s), normal field supplies, and other similar consumables used during regular business activities.

If special, project-specific consumables or tools are needed to complete this project, we reserve the right to charge those costs to the Client as reimbursable costs at a rate equal to 110% of the actual direct cost.

#### Schedule

We anticipate the work outlined in the Scope of Services will be completed expeditiously in accordance with the below preliminary estimated project schedule.

- Engineering Design – completed for submittal for permit within 2 weeks of receipt of authorization to proceed.
- Bid Book Preparation – completed for transmittal to City within 1 week of completion of engineering design.

If there are specific milestones or timeframe requirements about which we are unaware, please contact us so that we can discuss accommodating those requirements.

Please understand that the schedule / anticipated timeframe is based on a presumed authorization date and also the presumption that jurisdictional, client, and other needed third-party review times will be typical. A delay in authorization to proceed, extended review times, or excessive agency comments may affect the schedule



negatively. Scheduling of some services is dependent on weather and conditions not conducive to performing those services may also affect the schedule negatively.

We reserve the right to adjust these fees and prices for work done in future years by the Consumer Price Index rate for the previous year.

This proposal is valid for 60 days, unless formally extended by Consultant.

## Clarifications and Assumptions

Upfront communication about project requirements and goals with you, our Client, is very important to us.

Often times, some aspects of the project requirements and conditions are not fully known prior to us providing a scope and fee proposal. Stating assumptions within the Proposal helps us refine the Scope of Services and better associate appropriate and reasonable fees for the Project. The assumptions may or may not match the actual project requirements and conditions which may only become apparent throughout the course of the project or even after the project is complete; however identifying the conditions for which this Proposal is valid helps to provide and shared understanding about the conditions for which this Scope of Services and associated fees are valid. Please let us know if you feel any of the Clarifications or Assumptions do not match your expectations so we may revise the Proposal to better suit your needs.

We recognize that minor revisions to drawings and other project documents are normal and synonymous to the production of any project. Should major revisions or out of scope conditions arise, you will be notified of the need for additional services and anticipated additional fees before we proceed forward with additional work.

For the purposes of this proposal we are making the following assumptions:

- Boundary surveys, lot split surveys, consolidation surveys, easement exhibits and legal descriptions, ALTA surveys and asbuilts are excluded from this proposal.
- Preparation of construction asbuilt surveys and record drawings is excluded.
- All scope of work associated with public roadway improvements and utility extensions is specifically excluded from this proposal.
- Site electric design is excluded.
- Traffic Impact Studies are excluded from this scope of work.
- It is assumed that the proposed project will not require a zone change or variances, and therefore scope associated with zoning coordination and attendance to zoning meetings is excluded.
- Landscape architecture and design is not included. It is assumed that any landscaping if required will be provided by the City.
- The scope of work does not include a geotechnical investigation.
- This scope of work does not include subsurface utility locating services.
- Site utility design work, beyond utility coordination with sewer and water services, is not included as part of the scope of services.
- The scope of work does not include water permits, environmental assessment or investigation for presence or absence of wetlands.
- The contractor will prepare a Storm Water Pollution Prevention Plan (SWPPP) per ODOT 832 supplemental specifications. If required, The Kleingers Group, working with the project construction administrator staff, can apply for a Notice-of-Intent permit with the OEPA prior to construction.



- Review fees and permit application fees, if applicable, are not included in this proposal.
- Preparation of construction contract, bid opening and award recommendation, construction inspection, and construction staking are not included with this scope of services. The Kleingers Group can provide these services at our hourly rates.
- All proposed development is located within the limits of the property. Those improvements shown outside the property boundary will be allowed by the owner.
- The conceptual site layout is zoning compliant.
- Specifications in Microsoft Word format are not included in this proposal. It is assumed that specifications will be provided on plan drawings.
- The OEPA NOI, if required, will be signed by a representative the City or Contractor.
- No site stairs are included.
- Negotiations with adjoining property owners for necessary temporary or permanent easements for any off-site construction are not included in this proposal.
- Out of pocket expenses such as courier or overnight delivery service, permit, plan review or recording fees, etc. are not included and shall be considered reimbursable expenses.
- We assume all environmental site issues will be investigated by others and the pertinent information relayed to us.

## **Associated Services**

The Kleingers Group offers a wide variety of related professional civil engineering, transportation engineering, landscape architecture, planning, land surveying services, and reality capture (laser scanning) services. Although not included in this Proposal unless specifically itemized in the Scope of Services, we would be pleased to assist you with other aspects of your project needs. Please visit [www.kleingers.com](http://www.kleingers.com) or contact us directly to learn more about our various service offerings and how we can help you achieve your project goals.



## Terms and Conditions

### SERVICES PROVIDED

The Kleingers Group, Inc., the "Consultant", agrees to perform the professional services (the "Project") as described in the preceding paragraphs and referenced documents for the "Client",

City of Milford

The Client agrees to:

Provide full information as to his requirements for the Project prior to commencement of work on the Project;

- Assist Consultant by placing at his disposal all available information pertinent to the Project;
- Authorize and guarantee access to and make all provisions for Consultant to enter upon private property as required to perform his services under this Agreement;
- Provide and pay for all legal, accounting, and insurance counseling services, soil reports, laboratory tests and governmental permits necessary for the Project;
- Give prompt written notice to Consultant whenever the Client observes or otherwise becomes aware of any defect or problem in the Project or other event that may substantially affect Consultant performance of services under this Agreement;
- Promptly compensate Consultant for services rendered under this Agreement as set forth in the General Provisions outlined in the subsequent paragraphs; and
- Promptly review and act on all submissions made to him by Consultant.

### TIME OF COMPLETION

Consultant agrees to perform the outlined Scope of Services within the periods specified from receipt of Authorization to Proceed – exclusive of review time and time to complete review responses. Since neither Consultant nor Client have any control over reviews by third parties, the completion deadlines will be extended to accommodate reviews.

### COMPENSATION

For the Scope of Services outlined in the preceding paragraphs, Client agrees to pay Consultant the compensation stated in this Agreement. Client will be invoiced each month for any work performed during the period. For hourly services, invoices will be based on the number of hours expended by the Consultant's personnel in the period multiplied by the hourly rates specified in the agreement. For fixed fee services, 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 the due date 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 design 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.

### LIMITATIONS OF SERVICES

Exclusions and limitations outlined in the Agreement are not to be considered all inclusive. Unless expressly outlined as included with the Scope of Services, related services are not included under this Agreement.

### ADDITIONAL SERVICES

Changes made by Client after the start of work will be considered extra and may negatively impact the stated project timeline. Consultant will notify Client in writing of 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.

### INDEMNIFICATION / LIMITATION OF LIABILITY

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

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client 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.

Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

Notwithstanding the forgoing, in recognition of the relative risks and benefits of the Project to both Client and Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant to the





Client shall be the remainder of the Consultant's insurance proceeds up to the greater of:

\$50,000 or the Consultant's total fee for services rendered under this Agreement. 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.

### **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 subconsultants 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.

### **FORCE MAJEURE**

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;
- Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other 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, the Scope of Services 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;

In the event of any termination that is not the fault of the Consultant, the Client shall pay the Consultant, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by the Consultant in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, and all other expenses directly resulting from the termination.

### **DISPUTE RESOLUTION**

In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of 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 unless the parties mutually agree 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 their subcontractors, subconsultants, suppliers, and fabricators, thereby providing for mediation as the primary method for dispute resolution.

If mediation fails, Client and Consultant agree that they shall submit any unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, effective as of the date of this Agreement. If a dispute is not resolved after arbitration, the judgment may be entered into any court having jurisdiction thereof. Should litigation or arbitration occur between the two parties relating to the provisions of the Agreement, it is agreed that the prevailing party shall be entitled to recover all reasonable costs incurred in the defense / prosecution of the claim, including staff time, court costs, attorney fees, and other claim-related expenses.

### **OWNERSHIP AND COPYRIGHT OF DOCUMENTS**

All drawings and documents prepared or furnished by Consultant pursuant to this Agreement are the instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a revocable license to use instruments of Consultant's professional service for the purpose of constructing, maintaining, or operating the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages, and expenses, including attorney's fees, arising out of such reuse by Client or by others acting through Client.

### **FREE PUBLICITY**

Consultant has the right to photograph the Project and to use the photos in the promotion of the professional practice through advertising, public relations, brochures, or other marketing materials. Should additional photos be needed in the future, Client



agrees to provide reasonable access to the facility. Client also agrees to cite the name of Consultant as the provider of the professional services outlined in this Agreement in all publicity, presentations, and public relations activities that mention the name or depict the facility. Client permits Consultant to place temporary jobsite signs on the site that advertise the consultant's brand and involvement in the project.

#### **USE OF ELECTRONIC MEDIA**

Copies of documents that may be relied upon by Client are limited to printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic, or other types that are furnished by Consultant to Client are only for the convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

#### **OPINIONS OF COST**

When included in Consultant's scope of services, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional generally familiar with the industry. However, since the Consultant has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot or does not guarantee that proposals, bids, or actual construction costs will not vary from Consultant's opinions of probable construction cost.

#### **LEED CERTIFICATION**

The LEED Green Building Rating System and other similar environmental guidelines (collectively "LEED") utilize certain design and usability recommendations on a project in order to promote an environmentally friendly and energy efficient facility. The Client understands, however, that LEED is subject to various and possibly contradictory interpretations. Further, compliance may involve factors beyond the control of the Consultant including, but not limited to, the Client's or Owner's use and operation of the completed project. The Consultant does not warrant or represent the project will actually achieve LEED certification.

The signing of the declaration/affirmation is for the purposes of applying for LEED certification only and is considered an owner/client service benefit and as used herein the words certify, affirm and declare shall mean an expression of the Consultant's professional opinion to the best of its information, knowledge, and belief and does not constitute a warranty or guarantee by the Consultant.

#### **JOBSITE SAFETY DISCLAIMER**

Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and subconsultants

at a project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques, or procedures necessary for performing, superintending, and coordinating the work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the Client's contract with the General Contractor. The Client also agrees that the Client, the Consultant and the Consultant's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies or general liability insurance.

#### **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 Client nor Consultant 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.

#### **SIGNATURES**

Should Client be a corporation or governmental entity, the person signing this Agreement represents that he or she is duly authorized to execute the Agreement on behalf of the corporation for the payment of the amounts specified herein. Any agent signing on behalf of a Client represents he has full authority to sign on behalf of said Client.

#### **EEO**

The Kleingers Group supports an Affirmative Action Program. During the performance of this contract, the Consultant intends to comply with all Federal, state and local laws respecting discrimination in employment and non-segregation of facilities including, but not limited to, requirements set out at 41 CFR 60 – 1.4, and 60 – 741.5(a) 4, which equal opportunity clauses are hereby incorporated by reference and 60 – 250.45 and 29 CFR Part 471, if applicable.



## Authorization

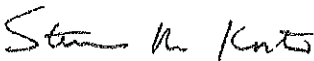
This Agreement (total page count listed below, together with Attachments and Exhibits identified within) constitutes the entire agreement between Consultant and Client and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representations, effective as of the Effective Date listed below.

Further, Client's signature below represents Authorization to Proceed with the work outlined above in accordance with this proposal including the Terms and Conditions.

**The Kleingers Group, Inc.**

**City of Milford**



SIGNED

SIGNED

Steven R. Korte

PRINTED

PRINTED

Principal

TITLE

TITLE

August 4, 2020

DATE SIGNED

DATE SIGNED / AGREEMENT "EFFECTIVE DATE":

**Primary Project Contact**

**Primary Project Contact**

Joshua P. Shaw

PRINTED

PRINTED

Project Manager

TITLE

TITLE

513-779-7851

PHONE NUMBER

PHONE NUMBER

Josh.Shaw@kleingers.com

E-MAIL ADDRESS

E-Mail Address





GIS

Clerm ▼

Search: Address/Parcel/Owner

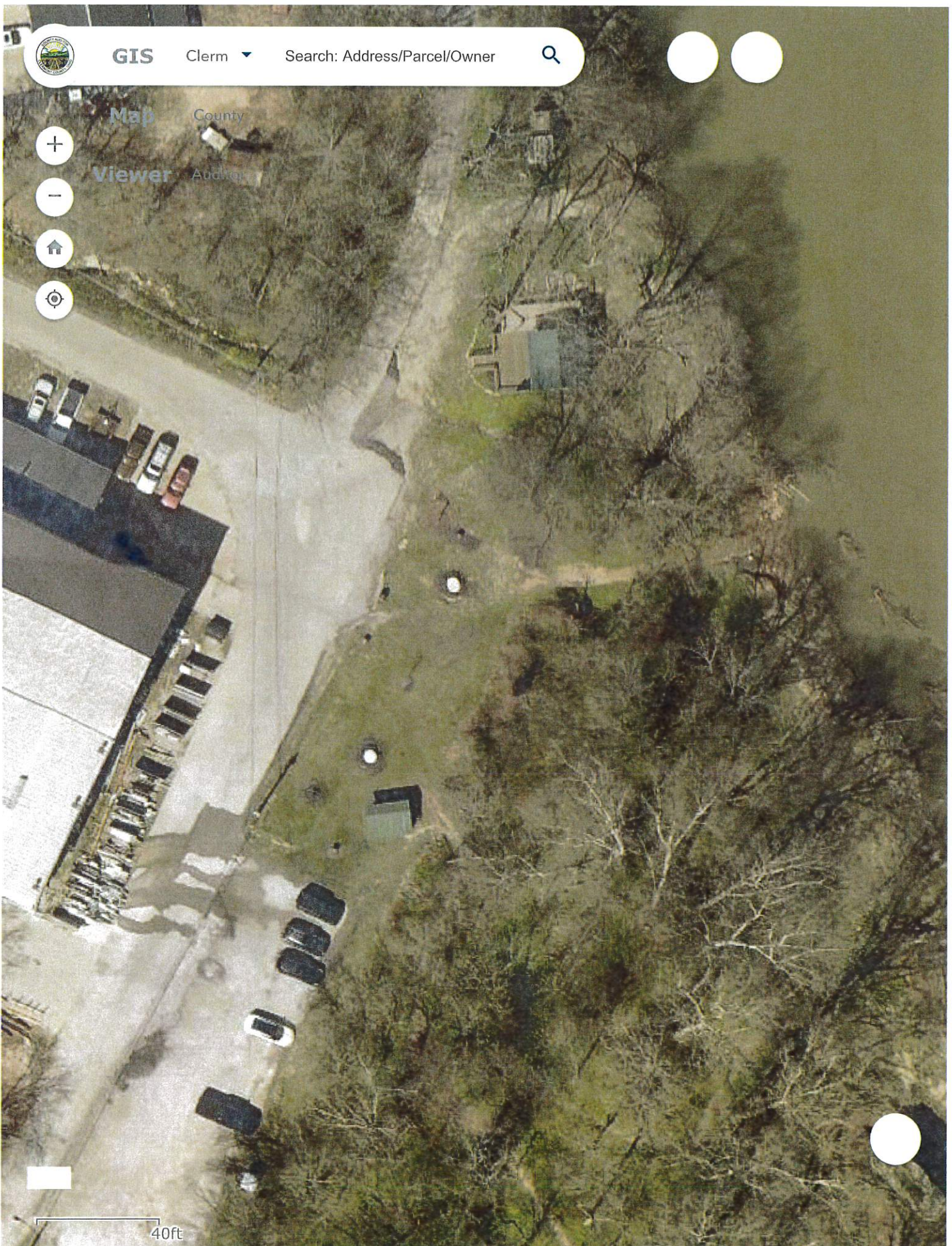


Map

County

Viewer

Address



40ft