

RESOLUTION NO. 11-92  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Mark Beasley ON  
THE 20th DAY OF April 1992.

A RESOLUTION RATIFYING THE ACTION TAKEN  
BY THE CITY MANAGER TO ENTER INTO AN  
AGREEMENT BETWEEN THE CITY OF CENTERVILLE  
AND ARCHITECTS ASSOCIATED FOR  
ARCHITECTURAL/ENGINEERING DESIGN SERVICES  
FOR THE YANKEE TRACE CLUBHOUSE AND RELATED  
FACILITIES.

WHEREAS, the City has obligated the necessary funds  
for the construction of the Yankee Trace Clubhouse and  
related facilities in connection with the Yankee Trace Golf  
Course, and

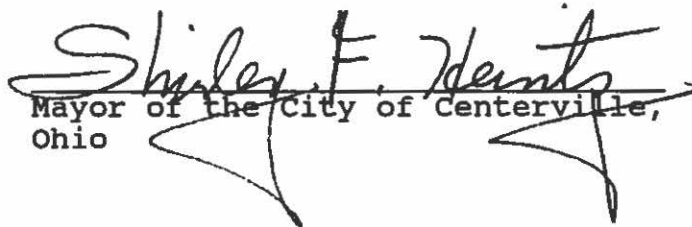
WHEREAS, the City desires to engage the services of  
Architects Associated to undertake Architectural/Engineering  
design services for the construction of the Yankee Trace  
Clubhouse and related facilities.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE  
HEREBY RESOLVES:


SECTION 1. That the action taken by the City  
Manager is hereby ratified to enter into an Agreement between  
Architects Associated and the City of Centerville to  
undertake Architectural/Engineering design services in  
connection with the Yankee Trace Golf Course, a copy of which  
Agreement is attached hereto, marked Exhibit "A" and  
incorporated herein.

SECTION 3. This Resolution shall become effective  
at the earliest date allowed by law.

PASSED this 20th day of April,  
1992.

  
Mayor of the City of Centerville,  
Ohio

ATTEST:

  
Clerk of the Council of the  
City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution Number 11-92, passed by the Council of the City of Centerville, Ohio, on the 20th day of April, 1992.

  
Clerk of Council

Approved as to form, consistency  
with existing ordinances, the  
charter and constitutional provisions.  
Department of Law  
Robert N. Farquhar  
Municipal Attorney

YANKEE TRACE  
CLUBHOUSE AND  
RELATED FACILITIES

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**an agreement for**

**Architectural/Engineering design services**

**between**

**Architects Associated**

**and**

**The City of Centerville, Ohio**

**April, 1992**

## **YANKEE TRACE CLUB HOUSE AND RELATED FACILITIES AGREEMENT**

**THIS AGREEMENT made and entered into on this Fifteenth day of April, 1992, by and between the City of Centerville, Ohio, 100 W. Spring Valley Road, Centerville, Ohio 45458, hereinafter referred to as "City", and Architects Associated, 1118 S. Main Street Dayton, Ohio 45409, herein after referred to as "Architect".**

### **WITNESSETH**

**WHEREAS, the City has obligated the necessary funds for the conduct of the services described hereinafter; and**

**WHEREAS, the city desires to engage the services of Architect to undertake clubhouse and maintenance facilities design, and**

**WHEREAS, such services are professional and non-competitive in nature;**

**NOW, THEREFORE, for and in consideration of the promises, covenants and agreements herein contained, the parties mutually agree as follows:**

**1. INTRODUCTION.** The City has control of certain real property located on or near Yankee Road and Social Row Road of approximately 470 acres, on which the City is developing Yankee Trace Golf Course Community to include Clubhouse and Maintenance Complex facilities, hereinafter referred to as "Clubhouse". City wishes to retain Architect to perform certain services in connection therewith, as provided herein. For purposes of this Agreement, the Clubhouse includes the following:

- A. Develop space program and budget.**
- B. Site plan for building areas, Clubhouse design, Golf car storage design, Maintenance building design, On-Course structures, Design of Roads, Parking, and adjacent Yards.**
- C. Engineering for the building facilities.**

**2. BASIC DESIGN SERVICES.** City hereby engages Architect and subcontractors for the basic design services:

- A. Programming**
- B. Design**
- C. Construction Administration**

The basic services will consist of five phases:

Phase I	Schematic Design
Phase II	Design Development
Phase III	Construction Documents
Phase IV	Bidding and Negotiation
Phase V	Construction Administration

**I. Schematic Design Phase.** Architect shall develop the space program and review to arrive at a mutual understanding of such requirements with City.

Architect shall provide a preliminary evaluation of the space program, construction schedule and construction budget requirements, also, review with the City alternative approaches to design and construction of the project. Based on the mutual agreed upon program, schedule and construction budget requirements, Architect shall prepare for approval by the City schematic design documents consisting of drawings and other documents illustrating the scale and relationship of project components.

Architect shall submit to the City a preliminary estimate of construction cost based on the unit costs as a result of schematic design.

**II. Design Development Phase.** Based on the approved schematic design documents and any adjustment authorized by the City in the program, schedule and construction budget, the Architect shall prepare for approval by City, design development documents consisting of drawings and other documents to fix and describe the size and character of the project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

**III. Construction Document Phase.** Based on the approved design development documents and any further adjustment in the scope or quality of the project or in the construction budget authorized by the City, the Architect shall prepare, for approval by the City, construction documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the project.

The Architect shall assist the City in the preparation of the necessary bidding information, bidding forms, the conditions of the contract, and the formal agreement between the City and Contractor.

The Architect shall advise the City for any adjustments to previous preliminary estimates of construction costs indicated by changes in requirements or general market conditions.

The Architect shall assist the City in connection with the City's responsibility for filing documents required for approval of governmental authorities having jurisdiction of the project.

**IV. Bidding And Negotiation Phase.** The Architect will consult with the City and provide plans, specifications and contract documents for the contractors to bid the work. The Architect will also consult with and make recommendations to the City regarding the letting of contracts by the City for the performance of various aspects of the construction work. As and when appropriate Architect will:

1. Assist the City in pre-qualifying bidders as necessary to obtain construction bids from the qualified and responsible contractors.
2. Conduct a pre-bid conference to explain the scope of construction work and answer questions by prospective contractors and suppliers.
3. Review bids and make recommendation of suitable contractors.
4. Architect will recommend a contract price and other terms for all construction contracts let to perform the construction work.
5. Recommend to the City all contractual relationships that are necessary to complete the construction work.
6. Consult with the City and the City's attorney regarding the terms of contracts.
7. Consult with the City regarding schedule for the construction work and recommend a desired schedule for the contract work for City's approval and execution.

**V. Construction Phase.** Architect will, during the progress of the construction work, consult with and make recommendations to City concerning Clubhouse construction based upon the expertise and the experience of Architect and consultants. Architect will make periodic inspections to the construction site and will act as the liaison between design of the Clubhouse, construction documents and performance of construction work. In this regard Architect shall review and approve contractors submittals such as shop drawings, product data and samples. Architect will advise the City regularly as to the status of the construction work and whether or not it is proceeding according to the contract documents and to the contractors schedule. Architect will assure adequate review of progress of the construction work and advise City regarding the approval of the request for payments by contractors.

Architect may, where appropriate, recommend that City disapprove or reject any work as a failing to conform to the construction documents and relevant construction contracts. The Agreement between the City and Architect as well as the Construction Specifications will govern the construction work.

**3. FEE SCHEDULE.** The following is the fee schedule for architectural and engineering services of Clubhouse design to coincide with the time frame schedule to plan, design, solicit bids and provide construction administration of the Clubhouse.

**Compensation and Method of Payment**

**A. Compensation**

The City agrees to pay to Architect the total sum amount of \$126,420.00 as full and complete compensation for the consultant's services of Clubhouse planning and design in accordance with the agreement. The compensation is computed based on the program and budget assumption as shown in the attached Exhibit A.

If the total facility cost is less than \$1,400,000.00 the City agrees to pay Architect compensation at 8.0% of total facility cost, and

If the total facility cost is greater than \$1,400,000.00, the City agrees to pay Architect compensation at 7.5% of total facility cost.

**B. Method of Payment**

The City shall make payment under this agreement in accordance with the following payment schedule upon submission of a requisition for payment specifying that the required services have been performed, accompanied by data satisfactory to the City to document entitlement to payment.

**I. Programming and Schematic Design Phase**

**A. \$ 25,284.00 Preliminary Design Phase, payable as follows: (20% of total)**

1. **\$ 8,000.00 upon signing of the Clubhouse design agreement and notice to begin space program. (32% of A.)**
2. **\$ 17,284.00 upon completion, presentation, and acceptance of preliminary design to the City. (68% of A.)**

**II. Design Development and Construction Document Phase**

A. \$ 69,531.00 Preparation and delivery of construction drawings and specifications, payable as follows: (55% of total)

1. \$ 62,531.00 divided into monthly progress payments during preparation of the contract documents, including building code review process. (90% of A.)
2. \$ 7,000.00 upon completion, delivery, and acceptance of contract documents by the City. (10% of A.)

**III. Bidding and Negotiation Phase**

A. \$ 6,321.00 Contractors bidding and negotiation process payable as follows: (5% of total)

1. \$ 6,321.00 upon notice from City and local authorities that the Clubhouse project has been approved to proceed to construction. If such approval is denied for any reason, the City is not obligated for the fees as outlined in this paragraph.

**IV. Construction Phase**

A. \$ 25,284.00 Consultation during construction of Clubhouse, payable as follows: (20% of total)

1. \$ 22,284.00 during the progress of the construction work, for normal Clubhouse architectural services, payable in monthly installments following commencement of and during the progress of the construction work as determined by Architect and by the City. (88% of A.)
2. \$ 3,000.00 upon satisfactory completion of the construction work. (12% of A.)



(OPTIONAL)

3. \$ 5,000/month for provision of a full time site manager to coordinate and manage the construction of the Clubhouse, based upon months that actual construction activities are taking place.

Architect will have the right to suspend performance under this Agreement during the period in which the City is in arrears for more than 60 days under the above payment schedule or with respect to reimbursement of any expenses due under Part 8, without limiting any other rights which Architect may have against the City under this agreement.

4. **Expenses.** The City will pay or reimburse Architect for all reasonable expenses incurred by Architect or its' staff for long distance communications and duplication of documents in connection with performing Company's services hereunder, promptly upon the City's receipt of monthly statements for such expenses.

5. **Promotion of Clubhouse.** The City and Architect jointly will endeavor to promote the Clubhouse for the purpose of advertising to the public the City has a quality Golf Course and Clubhouse. Architect will use his experience and contacts in the Dayton area community and nationally to draw attention to their Golf Course and Clubhouse from the local media and other professional organization. The City will endeavor to maintain the quality of Golf Course and Clubhouse.

6. **Changes in Clubhouse.** The City agrees that if any substantial change is made in the Clubhouse design without approval of Architect with respect to both design and concept and construction and execution, then thereafter the City will not state or represent in any manner that the Clubhouse, as so changed, was designed by Architect.

7. **Subcontracting.** None of the work or services covered by this agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract reviewed by the City before execution, which contract shall explicitly state that it is subject to each provision of this agreement. However, the City agrees that certain work and services will be subcontracted to:

**Barge, Waggoner, Sumner and Cannon, Engineers**

**Marwood, Cost Consultant**

**Interior Designer - To Be Determined**  
(Estimated Fee \$5,000.00 to \$6,000.00 will be added to the compensation.)

**Kitchen Designer - To Be Determined**  
(Estimated Fee \$8,000.00 to \$10,000.00 will be added to the compensation.)

**8. Additional Services by Architect.** In addition to the services identified above in Part 2, Architect shall provide services for which specific costs are not established at the time of the signing of this agreement, but which are mutually understood to be necessary for designing and building the Clubhouse. A written request must be submitted to the City for approval of all additional services.

The following services and expenses are additional to those described in Part 2. All of these services must be authorized by the Project Manager (appointed pursuant to Part 18, Item I) in advance by written notice, and shall be paid by the City on an additional fee basis agreed upon prior to approval and as stated in the written notice.

**A. Reimbursable Services:**

- 1) **Site Survey and Soil Boring:**
- 2) **Providing, at the written request of the City, special studies not specified under this agreement.**
- 3) **Major revision of the previously approved drawings where such revisions are made necessary by the significant program changes, changes in the scope of work ordered, or changes made necessary by erroneous information provided by the City.**
- 4) **Providing services after expiration of the Contractor's warranty periods, except where such services relate to deficiencies or errors in the plans or specifications which were not addressed by the Architect's performance. Any substantial warranty work will restart the warranty period.**
- 5) **Providing professional services made necessary by default of a contractor or for major defects in the work of a contractor when the Architect was not negligent in the performance of his specific duties.**

**B. Special Presentation or Publication Package**

- 1) **Based on the final concept plan for the project, Architect will prepare necessary documents, colored rendering, model, or statements for formal review by the City or other review and publication entities. (Estimated cost is \$3,000 to \$4,000 for colored rendering and \$5,000.00 to \$6,000.00 for scaled model of building.)**

**9. Term.** The services of the Architect are to commence immediately upon execution of this agreement, and shall be in effect for 24 months.

**10. Compliance with Laws and Policies.**

**A.** In the performance of services under this agreement, the Architect shall comply with all statutes, ordinances, regulations, and rules, of the Federal Government, the State, the County, and the City, which are applicable.

**B.** Whenever, under the Agreement, City notices, approvals, authorizations, waivers, instructions, changes, or determinations are required, they shall be effective only when given in writing and signed by the City.

**11. Hold Harmless.** Architect will protect and save the City harmless from any and all loss, claims, expenses, actions, causes of action, costs, damages, and obligations, financial or otherwise, arising from acts of negligence by Architect, its agents, employees, or licenses, that result in injury to persons or damage to property; and from any obligations for disallowed costs paid to the Contractor by the City.

**12. Assignability.** Architect shall not assign any interest in this agreement, and shall not transfer any interest in the same, whether by assignment or novation, without prior written consent of the City. Provided, however, that the claims for money due or to become due Architect from the City under this Agreement may be assigned to a bank, trust company, or other financial institution, with the consent of the City. Notice of any such proposed assignment or transfer shall be furnished promptly to the City.

**13. Termination.**

**A. Termination of Agreement for Cause**

If, through any cause, Architect shall fail to fulfill in a timely and proper manner his obligations under this agreement or if Architect shall violate any of the covenants or agreements of this agreement, the City shall have the right to terminate this agreement by giving written notice to Architect specifying the effective date of the termination, at least five (5) working days before such effective date. In such event, all finished or unfinished documents, data, studies, and reports prepared by Architect under this agreement shall, at the option of the City, become its property and Architect shall be entitled to receive equitable compensation for any work satisfactorily completed. Notwithstanding the above, Architect shall not be relieved of liability to the City for damages sustained by the City by virtue of any payments to Architect for the purposes of offset until such time as the exact amount of damages due the City from Architect is determined.

**B. Termination of Convenience of the City**

The City may terminate this agreement at anytime by giving at least thirty (30) days notice in writing from the City to Architect. If Architect is terminated by the City as provided herein, Architect will be paid an amount which bears the same ratio to the total services of Architect covered by this agreement, less payments of compensation previously made.

**14. Reports, Information and Audits.** Architect, at such time in such form as the City may require shall furnish the City such reports as may be requested pertaining to the work or services undertaken pursuant to this agreement, the cost and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement. Architect shall retain all financial and administrative records for a minimum of three (3) years following completion of the agreement, and shall permit the City or any of its representatives or auditors access to such records.

**15. Insurance.**

**A.** Prior to execution of this agreement by the City, Architect must furnish, at his cost and expense, an insurance certificate for comprehensive general liability insurance to the City. Such insurance shall be obtained from financially responsible insurance companies, licensed in the state of Ohio and acceptable to the City. Prior to cancellation of, or material change in any required policy, a minimum of thirty (30) days written notice shall be given to the city of Centerville by means of certified mail, returned receipt requested. All notices shall name Architect, the City, and identify the agreement and policy number.

**B. Required Coverage:**

- 1. Worker's Compensation: In compliance with the Compensation Law of the State of Ohio.**
- 2. General Liability: A minimum of liability of \$250,000 for error and failure of professional services.**
- 3. Architect shall carry insurance against loss or damage to drawings, specifications and other valuable documents associated with the project during their course of preparation, use and until completion of the project.**

**C. All referenced policies and/or certificates of insurance shall be subject to the following stipulations:**

- 1. All policies and/or certificates of insurance shall include the City as an additional named insured.**
- 2. Underwriters shall have no right of recovery or subrogation against the City; it being the intent of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.**
- 3. The clause entitled "Other Insurance Provisions" contained in any policy including the City as a additional insured shall not apply to the City if such clause would result in the insurance policy not being primary.**
- 4. The insurance companies issuing the policy or policies shall have no resource against the City for payment of any premiums due or for any assessments under any form of any policy.**
- 5. Any and all deductibles contained in any insurance policy shall be assumed by and at the risk of Architect.**

**D. All insurance policies and/or certificates of insurance shall be approved by the City prior to the commencement of work.**

**E. Additional coverages and/or higher limits of liability may be required by the City prior to the commencement of work.**

- F. If any of the said policies shall be or at any time become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall be or at any time become unsatisfactory to the City, Architect shall promptly obtain a new policy, submit the same to the City for approval and thereafter submit a certificate of insurance as herein above provided. Upon failure of Architect to furnish, deliver, and maintain such insurance as provided herein, this agreement, at the election of the City may be immediately declared suspended, discontinued or terminated. Failure of Architect in obtaining and/or maintaining any required insurance shall not relieve Architect from any liability under the agreement, nor shall the insurance requirements be construed to conflict with the obligations of Architect concerning indemnification.**

**16. Nondiscrimination Provisions. During the performance of this agreement, Architect, for himself, its assignees, and successors in interest, agrees: That in the hiring of employees for the performance of work under this agreement or for any subcontract related thereto, Architect or subcontractors shall not, by reason of race, color, religion, sex, age, handicap, national origin or ancestry, discriminate against any citizen in the employment of a person qualified and available to perform work to which this agreement relates; and**

**That Architect, Subcontractor, or any person acting on behalf of the Architect or Subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this agreement on account of race, color, religion, sex, age, handicap, national origin or ancestry.**

**17. Notices and payments. All notices and other written communications between the parties and all payments to Architect will be made at the address for the receiving party set forth at the beginning hereof or at such other address as either party may hereafter specify for itself in writing from time to time to the other party. Written communications will be deemed made or given to a party when so addressed to the party and deposited in the United States mail, first class postage prepaid.**

**18. Duties of City. The duties of the City shall be as follows:**

- A. Appoint a City representative for the Clubhouse project who will act on behalf of the City during the length of the project, and be authorized as the "Project Manager".**

- B. Furnish, through the Project Manager, complete site information including property ownership, surveys, boundaries, streets, traffic flows, walks, alleys, right-of-way, easements, aerial photography, topography, and utilities and infrastructure. At the discretion of the Project Manager, any of this base data may be supplied by the Architect and will be paid as reimbursable items or in additional services, under the terms described in agreement.**
- C. Furnish existing reports, master plans, and studies, concerning Yankee Trace Golf Course.**
- D. Give prompt consideration to all sketches, estimates, working drawings, specifications, proposals and other documents presented by the Architect, and inform the Architect of decisions, in writing, within a reasonable time.**
- E. Advise the Architect by written notice to proceed with Phase I and to proceed with each phase thereafter.**
- F. Advertise for bids for construction and open bids at the appointed time and place, paying all costs incidental thereto.**

**City's Construction Responsibilities: All costs for the Construction Work will be borne by the City, and Architect will not be responsible for or have any obligations with respect to any such costs. Architect will not be a party to, nor will it be obligated under, any contracts entered into for the performance of the Construction Work, such obligations as between the parties to this Agreement being solely the responsibility of the City. Architect will not be responsible for any Contractor's improper performance under any such contracts, however, Architect will advise the City of any information coming to the attention of Architect regarding improper performance under such contracts. It is understood that Architect will not be responsible for supervising the work of any contractor but will instead make recommendations with respect thereto to City. Also, Architect will not be responsible for the construction means, methods, techniques, sequences, or procedures or the safety of precautions incident thereto. City agrees to indemnify and save harmless Architect against and from any and all claims, losses, costs, or expenses arising out of the Construction Work, including without limitation any legal fees or expenses incurred by Architect in connection therewith.**

**19. Miscellaneous. This Agreement will be construed in accordance with and governed by the laws of Ohio. The paragraph headings in this Agreement are for reference only and will be ignored in construing this Agreement. This written Agreement constitutes the entire Agreement between the parties relating to the subject matter hereof and is the final expression of the Agreement between the parties. Any amendments to this Agreement shall be in writing and signed by both parties.**

20. **Severability.** In the event that any provision of this Agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, legality of the remaining provisions and each provision of the Agreement will be and is deemed to be separate and severable from each other provision.

IN WITNESS WHEREOF, the City and Architect have executed this Agreement as of the date first above written.

Cecy Greene  
Witness

City of Centerville, Ohio  
By [Signature] 4-13-92  
Darryl K. Kenning Date  
City Manager

[Signature]  
Witness

Architects Associated  
By [Signature] 4/15/92  
Y. W. Bryan Choi Date  
Title PRINCIPAL



## EXHIBIT A

### *SPACE PROGRAM AND BUDGET*

<b>PRO SHOP</b>	<b>900 SF</b>
<b>OFFICE/FILE STORAGE</b>	<b>200 SF</b>
<b>CLUB REPAIR/SUPPLY STORAGE</b>	<b>380 SF</b>
<b>GOLF ACADEMY</b>	<b>400 SF</b>
<b>LOCKERS/CHANGE ROOMS/TOILETS</b>	<b>500 SF</b>
<b>DINING/BAR/MULTI-PURPOSE ROOM (150 SEATS)</b>	<b>3,300 SF</b>
<b>BANQUET ROOM (200 SEATS)</b>	<b>3,300 SF</b>
<b>KITCHEN/PANTRY/SERVICE</b>	<b>1,200 SF</b>
<b>MANAGERS OFFICE/FILE STORAGE</b>	<b>250 SF</b>
<b>LOBBY</b>	<b>500 SF</b>
<b>REST ROOMS</b>	<b>200 SF</b>
<b>TOTAL INDOOR AREA</b>	<b>11,130 SF</b>
<b>FINISHED AREA</b>	<b>6630 SF X \$83.00 = \$ 550,300</b>
<b>UNFINISHED (BANQUET HALL &amp; KITCHEN) AREA</b>	<b>4500 SF X \$67.00 = \$ 301,500</b>
<b>PATIO/DECKING AREA</b>	<b>2000 SF X \$21.00 = \$ 42,000</b>
<b>CLUBHOUSE COST</b>	<b>\$ 893,800</b>

**SPACE PROGRAM AND BUDGET**  
**CONTINUED**

<b>GOLF CAR STORAGE</b>	<b>3550 SF X \$41.00 =</b>	<b>\$ 145,600</b>
	<b>(50 CARS)</b>	
<b>GOLF CAR RETURN</b>	<b>(25 CARS)</b>	<b>\$ 9,100</b>
<b>MAINTENANCE BLDG.</b>	<b>4650 SF X \$37.00 =</b>	<b>\$ 172,100</b>
<b>PARKING</b>		<b>\$ 22,000</b>
<b>MAINTENANCE YARD</b>		<b>\$ 25,000</b>
<b>SERVICE ROAD/UTILITIES</b>		<b>\$ 110,000</b>
<b>ENTRANCE/GUEST PARKING</b>		<b>\$ 200,000</b>
<b>ON-COURSE STRUCTURES</b>		<b>\$ 33,000</b>
<b>LANDSCAPING</b>		<b>\$ 75,000</b>
<b>SUPPORT FAC. COST</b>		<b>\$ 791,800</b>
<b>CLUBHOUSE COST</b>		<b>\$ 893,800</b>
<b>TOTAL FACILITIES COST</b>		<b>\$1,685,600</b>