

RESOLUTION NO. 6-91
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Sally Beals ON
THE 18th DAY OF March 1991.

A RESOLUTION RATIFYING THE ACTION TAKEN BY THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR PLANNING, ENGINEERING, AND GOLF COURSE DESIGN BETWEEN GENE BATES AND ASSOCIATES, INC. AND THE CITY OF CENTERVILLE, OHIO, AND APPOINTING THE CITY MANAGER AS "PROJECT MANAGER" FOR THE LENGTH OF THE GOLF COURSE PROJECT.

WHEREAS, the City has obligated the necessary funds to develop an upscale golf course community, and

WHEREAS, the City desires to engage the services of Gene Bates and Associates, Inc. to undertake planning, golf course design, and engineering services in connection with this golf course project.

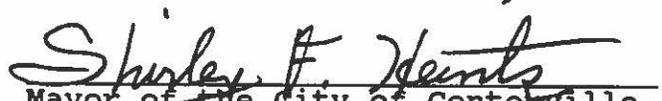
NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the action taken by the City Manager is hereby ratified to enter into an Agreement between Gene Bates and Associates, Inc. and the City of Centerville to undertake planning, golf course design, and engineering services in connection with the City of Centerville Golf Course Project, a copy of which Agreement is attached hereto, marked Exhibit "A" and incorporated herein.

SECTION 2. That the City Manager is hereby appointed as the City's Representative for the Golf Course Project who will act on behalf of the City during the length of the project, and be authorized as the "Project Manager".

SECTION 4. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 18th day of March,
1991.

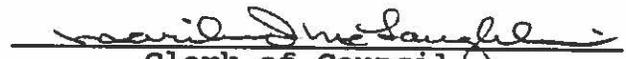

Mayor of the City of Centerville,
Ohio

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 6-91, passed by the Council of the City of Centerville, Ohio, on the 18th day of March, 1991.


Clerk of Council

Approved as to form, consistency
with existing ordinances, the
charter and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

Centerville Golf Course

an agreement for
planning, engineering, and golf course design

between

Gene Bates and Associates

and

The City of Centerville, Ohio

March, 1991

CENTERVILLE GOLF COURSE AGREEMENT

THIS AGREEMENT made and entered into on this 7th day of MARCH, 1991, by and between the City of Centerville, Ohio, 100 W. Spring Valley Road, Centerville, Ohio 45458, hereinafter referred to as "City", and Gene Bates and Associates, Inc., Golf Course Design, 11382 Prosperity Farms Road, Suite 230, Palm Beach Gardens, Florida 33410, hereinafter referred to as "Bates".

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 Bates to undertake planning, golf course design, and engineering services in connection with a Golf Course Project; and

WHEREAS, such services are professional and noncompetitive 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 420 acres, on which City intends to develop an upscale municipal golf course community including an 18-hole golf course (the "Golf Course") and driving range. Hereinafter referred to as the "Site". City wishes to retain Bates to perform certain services in connection therewith, as provided herein. For purposes of this Agreement, the Golf Course includes the following:

- A. Site analysis and conceptual land planning through master planning of the site.
- B. Golf Course design including clubhouse location, cart paths, irrigation system, halfway house, rest rooms, maintenance facility, bridges, dams, storm water drainage systems and other facilities incidental to the Golf Course.
- C. Engineering for the Golf Course and associated facilities.

2. **Basic Design Services.** City hereby engages Bates and his sub-consultant contractors for the following basic design services:

- A. Project Planning
- B. Engineering
- C. Golf Course Design

The basic design services will consist of six phases:

Phase I	Planning and Preliminary Phase
Phase II	Construction Documents Phase
Phase III	Structural Engineering Phase
Phase IV	Landscape & Architectural Phase
Phase V	Bidding & Negotiation Phase
Phase VI	Construction Phase

I. **Planning and Preliminary Phase.** Bates will establish a base mapping system to be used in the site analysis and the conceptual planning process. The base mapping will be developed on base data provided by the City including a scaled aerial photograph, legal property boundary survey, at least two (2) foot contour topographic mapping and location of all easements, encroachments, utilities and other data relative to the site to which the City has access.

The site analysis will include a physical inventory of the property including analysis maps of soils, drainage and hydrology, elevations, slopes, access, views, existing vegetation and infrastructure.

Bates will also conduct an on-site environmental study to determine the identification, delineation, mapping and characterization of the jurisdictional wetlands. This information will be the basis of any environmental permit applications, if necessary. Bates will make application on behalf of the City if needed. If any extra ordinary services are required, Bates and the City will mutually agree to the scope and cost of additional services.

Bates will conduct a geotechnical investigation to determine the site's physical characteristics and provide a basis for the project engineering requirements. The investigation will include 25 borings to ascertain soil types, rock depth, structural characteristics of the on-site soils, as well as water table depths.

Bates will perform a hydraulic study to locate and size potential irrigation lakes and water features. The study will also identify a proposed master retention/detention control flood system for the project. Golf Course irrigation resources will be studied during this process.

Bates will perform sufficient field surveying to verify the aerial topography provided by the City of Centerville. This verification will entail running four longitudinal profiles (parallel with Yankee Road) and overlaying this data on the aerial map.

Bates will establish a project coordinate system for the total development. This coordinate system will enable the location of geotechnical borings, proposed roadway geometry, proposed utility locations and tees, turnpoints, green locations and bench marks as necessary to be plotted and in the field.

This system will provide the basis for establishing boundaries between the Golf Course and adjoining residential development. No formal survey or platting of these boundaries is included in this Agreement.

Once all the site specific information has been gathered and compiled, Bates will prepare a series of preliminary concept plans for the project. These plans will illustrate possible relationships between the Golf Course, clubhouse, maintenance facility, site access, roadways, adjoining land uses, open spaces and other components for good land planning.

After approval of a preliminary concept by the City, Bates will prepare refined concept plans combining the desired attributes of the preliminary plans including a colored Master Plan illustrated for presentation. These plans will provide at least as much information and detail as the examples in Attachment A.

Bates will attend meetings requested by the City.

II. Construction Documents Phase. Upon approval by the City of the preliminary studies, the City engages Bates for the preparation of Construction Documents necessary for the permitting, bidding and construction of the project. The Construction Documents consist of the Working Drawings and Specifications necessary for permitting, bidding and construction of the project, and will include unit pricing. To the extent appropriate, the Construction Documents will consist of:

- A. Routing Plan (site plan)
- B. Strategy Plan
- C. Clearing Plan
- D. Topsoil Plan
- E. Contour Plan
- F. Cut/Fill Plan
- G. Drainage Plan
- H. Lakes/Water Location Plan
- I. Irrigation Plan
- J. Practice Area Plan
- K. Grassing Plan

- L. Cart Path Location Plan
- M. Landscaping Plan
- N. Green and Tee-Site Drawings
- O. Other plans as necessary
- P. Utility Plans for Sanitary, Storm and Water

Included in the Plan Documents will be specifications as recommended by the United States Golf Associations for construction of the greens. The sand, gravel and sphagnum peat moss used in the construction of the greens shall be tested and approved by a testing laboratory recommended by the United States Golf Association. The greens will be constructed to specifications by the USGA and Bates will not be responsible for the performance of the greens after construction. Bates will perform his duties under Part 2. VI, as it relates to the construction of the greens.

Bates will provide the following civil engineering services for the design of the golf course and associated facilities. These services shall include the following:

1. A site plan including the Golf Course, location of the clubhouse, parking lots, location of future leisure use areas, roadways, lakes and other improvements.
2. A grading plan for the proposed Golf Course, lakes and roadways, based on USGA datum elevations, complete with cut and fill quantities.
3. A drainage plan showing the principal system for the site. Hydraulic calculations will be provided for approval with the plans.
4. Retention/Detention/Irrigation lake design with overflow structure and emergency spillway.
5. Erosion Control plans and calculations necessary.
6. Roadway plan/profiles for major internal circulation and access roads.
7. Overall site utilities plan showing all utility improvements (excluding irrigation). Bates will coordinate with local utility companies such as gas, telephone, and electricity for locations of their respective improvements. No street lighting is included in this Agreement, however parking lot and approach lighting is included.
8. Sanitary sewer and stormwater sewer plans to serve the Golf Course and future residential areas. All sanitary

sewer and stormwater designs are to be based on a gravity flow system. No pump lift stations are included.

9. Domestic water plans to serve the Golf Course facilities and future residential areas. All water system designs assume adequate pressure exists in the present existing system. (No pump lift stations are included.)

III. Structural Engineering Phase.

1. Bates will provide the structural engineering necessary for the Golf Course design including retaining walls (up to six-foot height), golf cart path bridges, dams, irrigation lake overflow structures and box culvert drainage improvements.
2. Excluded from this Agreement are major roadway bridges, structural engineering for clubhouse or maintenance buildings, and retaining walls over six feet in height.
3. Bates will review and sign off on the pre-engineered maintenance building.

IV. Landscape & Architectural Phase.

1. Bates will provide landscape architectural designs in support of Golf Course designs. Bates will locate mass planting areas on the Golf Course and identify those masses by general plant type and height as a basis for designs.
2. No irrigation design is included in landscape design for the clubhouse area.
3. It is understood that Bates will provide landscape architectural services for the overall project such as entry landscaping.
4. Bates will provide an overall landscape master plan for the Golf Course, entries, roads and surrounding land which is essential to the overall appearance as well as function of the Golf Course. The use and preservation of the natural landscape features will reduce cost and to allow the golf construction to better "fit" onto the site.

Specifications for the civil and structural engineering and landscaping installed will be provided as necessary for the permitting, bidding, and construction of the project.

V. **Bidding and Negotiation Phase.** Bates will consult with the City and provide the plans, specifications and contract documents for contractors to bid the work. Bates 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, Bates will:

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

VI. **Construction Phase.** Bates will, during the progress of the Construction Work, consult with and make recommendations to City concerning Golf Course construction based upon the expertise and experience of Bates and his personnel. Bates, or his representative, will make periodic inspections when on-site and will coordinate the liaison between design of the Golf Course and performance of the Construction Work. In this connection Bates will check stake-out of greens, tees, mounds, and lakes after the initial survey and clearing has been completed, indicate any vegetation or trees to be retained, check grubbing, and check progress of construction as requested by the City or Contractor. Bates will advise City regularly as to the status of the Construction Work and whether or not it is proceeding according to the contractor's schedule. Bates will assure adequate review of the progress of the Construction Work and advise City regarding approval of requests for payment by contractor. Bates may, where appropriate, recommend that City disapprove or reject any work as failing to conform to the Plan Documents and relevant construction contracts. Bates will not be required to maintain an office or other place of business at or near the Golf Course in connection with the performance of its services under this Golf Course

Agreement. City and/or Contractor will provide for Bates and his representative an office or other place of business at or near the Golf Course in connection with the performance of its services under this Agreement.

The Agreement between the City and Bates as well as the Construction Specifications will govern the Construction Work.

The construction phase will be deemed completed for architectural purposes upon the satisfactory establishment of the turf of the Golf Course by Bates.

3. **Fee Schedule.** The following is the Fee Schedule for planning Golf Course architectural and engineering services to coincide with the time frame schedule to plan, design, solicit bids and provide architectural supervision and on-site coordination of the Centerville Golf Course project.

Compensation and Method of Payment

A. Compensation

The City agrees to pay to Bates the total sum amount of \$347,500 as full and complete compensation for the Consultant's services of project planning and Golf Course design in accordance with the Agreement.

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. **PLANNING AND PRELIMINARY DESIGN PHASE**

A. \$171,500 Preliminary Design Phase payable as follows:

1. \$35,000 upon signing of the Golf Course Agreement and notice to begin site research.

2. \$101,500 during the site plan and Golf Course planning process for submission and review by local authorities and the community.
3. \$35,000 upon completion, presentation, and acceptance of preliminary concepts to the City.

II. CONSTRUCTION DOCUMENT PHASE

- A. \$94,500 Preparation and delivery of Plan Documents, payable as follows:
 1. \$30,000 progress payment during preparation of Plan Documents, including the 404 permitting process.
 2. \$64,500 upon completion, delivery, and acceptance of Plan Documents.

III. BIDDING AND NEGOTIATION PHASE

- A. \$14,000 Contractor bidding and negotiation process, payable as follows:
 1. \$14,000 upon notice from City and local authorities that the Golf Course and 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. \$67,500 Consultation during Construction of the Golf Course, payable as follows:
 1. \$52,500 during the progress of the Construction Work, for normal Golf Course architectural services,

payable in monthly installments following commencement of and during the progress of the Construction Work as determined by Bates and the City.

2. \$10,000 upon the completion of the grassing (seeding) of the Golf Course.
3. \$2,500 upon the successful germination of the seed for the Golf Course in all areas.
4. \$2,500 upon completion of the Construction Work, which will be deemed completed upon the satisfactory establishment of the turf of the Golf Course.

(OPTIONAL)

5. \$5,000/month for provision of a full time site manager to coordinate and manage the construction of the Golf Course and the landscaping of the clubhouse and maintenance area, based upon months that actual construction activities are taking place.

Bates will have the right to suspend performance under this Agreement during any 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 Bates may have against the City under this Agreement.

4. Expenses. The City will pay or reimburse Bates for all reasonable expenses incurred by Bates or his personnel for communications and travel expenses in connection with performing Company's services hereunder, promptly upon the City's receipt of monthly statements for such expenses. Bates's travel expenses in connection with this Agreement will be billed as originating from Cincinnati, Ohio.

5. **Promotion of Golf Course.** The City and Bates jointly will endeavor to promote the Golf Course for the purpose of advertising to the public that the City has a quality Golf Course. Bates will use his experience and contacts in the golf industry to draw attention to the Golf Course from industry media and other professional organizations. The City will endeavor to maintain the quality of the Golf Course.

6. **Changes in Golf Course.** The City agrees that if any substantial change is made in the Golf Course without the approval of Bates 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 course, as so changed, was designed by Bates.

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:

David Jensen Associates, Inc., Planners

Barge, Waggoner, Sumner and Cannon, Engineers

8. **Additional Services by Bates.** In addition to the services identified above in Part 2, Bates 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 Golf Course.

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 1) in advance by written notice, and shall be paid for 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 Research:

- a. Boundary survey and topography.
- b. Utilities searches.

- 2) Engineering for:
 - a. Club house and/or maintenance buildings.
- 3) Architectural services for club house and/or maintenance building design.
- 4) Construction surveying and staking.
- 5) Providing, at the written request of the City, special studies not specified under this Agreement.
- 6) Major revisions of previously approved drawings where such revisions are made necessary by significant program changes, changes in the scope of work ordered, or changes made necessary by erroneous information provided by the City.
- 7) Meetings beyond a reasonable amount for the scope of work.
- 8) Providing services after expiration of the warranty periods, except where such services relate to deficiencies or errors in the plans or specifications which were not addressed by the Consultant, or which are directly attributed to the Consultant's performance. Any substantial warranty work will restart the warranty period.
- 9) Providing professional services made necessary by default of a contractor or for major defects in the work of a contractor when the Consultant was not negligent in the performance of his specific duties.

B. PUD or Other Zoning Submittal Packages

Based on the final concept plan for the project, Bates would prepare the necessary documents for formal review by the City or other review entities. The exact nature of these documents cannot be presently determined. (Estimated cost is \$7,500 - \$9,500.)

C. Residential Analysis

Provide a residential analysis that details demand for new residential units, profiles competition, outlines absorption potentials and recommends product styles, lot sizes and golf premiums must also be undertaken. This will ensure that the Golf Course and residential opportunities are compatible. It can be used in

selecting potential builders for the project as well as serve as the basis from which to do comparative cash flow analysis for the parcels and establishing improved land values. (Estimated cost is \$12,000 - \$16,000.)

D. Detailed Site Design

After a final master plan has been developed, Bates will prepare a detailed site plan for each parcel. The siteplan will illustrate entry and road layout and right-of-way; lot lines and size and quantity; general building setbacks and massing; and recreational areas; playgrounds or open space; major grade changes; general landscape treatment; and any other special project features. These plans will specifically respond to markets identified by a market study or prospective builders. The intent of the plan is to give the City enough detail to negotiate a sales price with potential builders and to establish a basic minimum design criteria for the parcel. This insures that the City establishes a quality framework for the overall project. (Estimated cost is \$8,000 - \$10,000.)

E. Design Guidelines

Bates will coordinate the preparation of Design Guidelines for the project. Prepared for a joint effort of the City and potential builders, these would identify and coordinate the design of all common elements such as:

- * Golf edge parcel/development parcel landscaping, fencing, crossings, security, signage, lighting, etc.;
- * Site plan standards such as buffering and mounding, hiding the parking lots, and home orientation to ensure view to the Golf Course are maintained;
- * Treatments of common retention areas;
- * General street scene elements such as landscaping, lot orientation, lighting, signage. (Estimated cost is \$7,500 - \$8,500.)

9. **Term.** The services of the Consultant are to commence immediately upon execution of this Agreement, and shall be completed within 24 months of completion and delivery of aerial photography. However, review and coordination with various groups may extend such time of completion.

10. Compliance with Laws and Policies.

A. In the performance of services under this Agreement, the Consultant 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. Bates 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 Bates, its agents, employees, or licensees, 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. Bates 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 Bates 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, Bates shall fail to fulfill in a timely and proper manner his obligations under this Agreement, or if Bates 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 Bates 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 Bates under this Agreement shall, at the option of the City, become its property and Bates shall be entitled to receive equitable compensation for any work satisfactorily completed. Notwithstanding the above, Bates shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by Bates, and the City may withhold any payments to Bates for the purposes of setoff until such time as the exact amount of damages due the City from Bates is determined.

B. Termination for 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 Bates. If Bates is terminated by the City as provided herein, Bates will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Bates covered by this Agreement, less payments of compensation previously made.

14. Reports, Information and Audits. Bates, at such times and 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 costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement. Bates shall retain all financial and administrative records for a minimum of three years following completion of the Agreement, and shall permit the City or any of its representatives or auditors access to such records.

Copies of all reports, studies and plans shall be provided to the City as completed and become the property of the City.

15. Insurance.

A. Prior to execution of this Agreement by the City, Bates 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 Centerville by means of certified mail, return receipt requested. All notices shall name Bates, the City, and identify the Agreement and policy number.

B. Required Coverages:

- 1. Worker's Compensation:** In compliance with the Compensation Law of the State of Ohio.
- 2. General Liability:** A minimum of liability per occurrence of \$500,000 combined single limit for bodily injury and/or property damage. The following coverages shall be included:
 - a. Premises - Operations**
 - b. Products/Completed Operations Hazard**

- c. Broad Form Contractual Insurance
 - d. Independent Contractors
 - e. Comprehensive Form
 - f. Broad Form Property Damage
 - g. Personal Injury
3. Automobile Liability: A minimum limit of liability per occurrence of \$500,000 combined single limit for bodily injury and/or property damage. The following coverages shall be included:
- a. Owned Automobiles
 - b. Hired Automobiles
 - c. Non-owned Automobiles
4. Bates 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 effected 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 recourse 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 Bates.
- 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, Bates 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 Bates 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 Bates in obtaining and/or maintaining any required insurance shall not relieve Bates from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of Bates concerning indemnification.

16. **Nondiscrimination Provisions.** During the performance of this Agreement, Bates, 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, Bates 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 Bates, Subcontractor, or any person acting on behalf of the Consultant 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 Bates will be made at the address for the receiving party set forth the 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:

1. Appoint a City representative for the Golf Course Project who will act on behalf of the City during the length of the project, and be authorized as the "Project Manager".
2. 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 Consultant and will be paid as reimbursable items or additional services, under the terms described in Agreement.
3. Furnish existing reports, master plans, and studies, concerning Centerville Golf Course.
4. Give prompt consideration to all sketches, estimates, working drawings, specifications, proposals and other documents presented by the Consultant, and inform the Consultant of decisions, in writing, within a reasonable time.
5. Advise the Consultant by written notice to proceed with Phase I and then to proceed with each phase thereafter.
6. 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 Bates will not be responsible for or have any obligations with respect to any such costs. Bates 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. Bates will not be responsible for any Contractor's improper performance under any such contracts, however, Bates will advise the City of any information coming to the attention of Bates regarding improper performance under such contracts. It is understood that Bates will

not be responsible for supervising the work of any contractor but will instead make recommendations with respect thereto to City. Also, Bates 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 Bates 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 Bates 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 Bates have executed this Agreement as of the date first above written.

Cory Shreve
Witness

City of Centerville, Ohio

By Darryl K. Kenning
Darryl K. Kenning
City Manager

Linda L. Schress
Witness

Gene Bates & Associates

By Gene Bates
Gene Bates

Title Pres

Attachment A

Attachment A

BRIGHTON CREST

COUNTY OF FRESNO, CALIFORNIA



SINGLE FAMILY DETACHED LOTS		
LOT AREA - S.F.	NO. OF LOTS	% OF TOTAL
9,600 - 12,500 S.F.	37	11%
12,500 - 16,000 S.F.	92	28%
16,000 - 20,000 S.F.	83	26%
20,000 - 30,000 S.F.	83	26%
30,000 + S.F.	23	8%
TOTAL	320	100%

TOTAL SITE ACREAGE: 488 ACRES

LEGEND

-  PHASE I LOTS
-  PHASE ONE LOTS
-  PHASE TWO LOTS
-  FUTURE DEVELOPMENT
-  APPROXIMATE LOCATION OF PROPOSED STREETS
-  APPROXIMATE LOCATION OF PROPOSED LANS
-  POSSIBLE LAKES
-  POSSIBLE TRAIL

ILLUSTRATIVE CONCEPT PLAN

OCTOBER 20, 1988

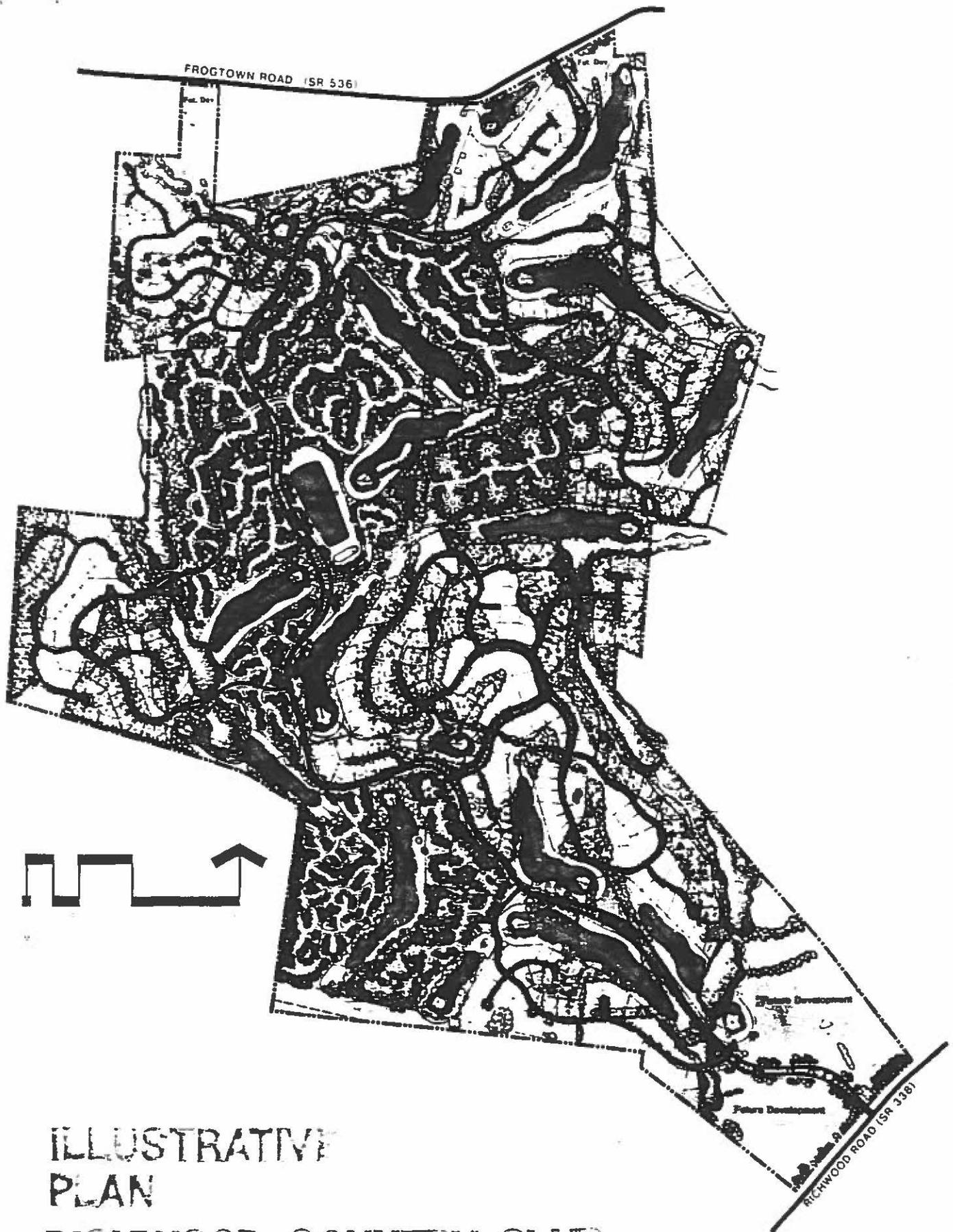
DEVELOPERS:
MILLERTON NEW TOWN
DEVELOPMENT COMPANY
83 EAST SHAW AVENUE SUITE 201
FRESNO, CALIFORNIA 93710

GOLF COURSE ARCHITECT:
JOHNNY MILLER DESIGN LTD.
1150 S. US HIGHWAY - 1, SUITE 305
JUPITER, FLORIDA 33477

PLANNERS:
DAVID JENSEN ASSOCIATES
360 SOUTH MONROE SUITE 120
DENVER, COLORADO 80209

ENGINEER:
PROVOST & PRITCHARD
3636 N. FIRST STREET, SUITE 123
FRESNO, CALIFORNIA 93726





ILLUSTRATIVE
PLAN

RICHWOOD COUNTRY CLUB

MOORE COUNTY, KENTUCKY

DEVELOPER:
GMG CORPORATION
P. O. BOX 308
NEWPORT, KY. 41072

PLANNERS:
DAVID JENSEN ASSOCIATES
360 SOUTH MONROE, SUITE 120
DENVER, CO 80209

ENGINEER:
JAMES W. BERLING
1671 PARK ROAD
FORT WRIGHT, KY. 41011

GOLF COURSE ARCHITECT:
GENE BATES
1150 SOUTH U.S. HIGHWAY 1
JUPITER, FL. 33477