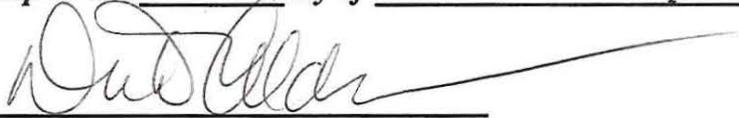


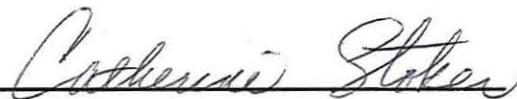
RESOLUTION NO. 95-39-A

BE IT RESOLVED by the Township Trustees of Union Township, Butler County, Ohio that:

.....attached R. D. Zande & Associates, Inc. contract, \$13,750.00

Adopted the 19th day of September, 19 95





Township Trustees

Attest: 
Township Clerk



**R.D. Zande
&
Associates, Inc.**

August 25, 1995

Resolution

95-39-A

Mr. Michael T. Hinnenkamp, Assistant Administrator
Union Township
9113 Cincinnati- Dayton Road
West Chester, OH 45069

Re: Agreement for Services
RDZ PN 0232CP

Dear Mr. Hinnenkamp:

We are pleased to submit this agreement for services to be performed for Phase 2, land planning services for the proposed community center (for this document, "community center" is defined as the central community gathering space with open spaces for active and passive recreation, shops, businesses, residences, and public facilities) for Union Township, Butler County, Ohio. The proposed site is located east of I-75, adjacent to the proposed Allen Road interchange (hereinafter called the "Project"). This agreement is based upon information you have furnished us as to your requirements for the Project including any special or extraordinary considerations or special services. Should these conditions change, we will work with you to modify the services we are providing so that the completed Project will meet your requirements.

Our services for this Project are identified in Exhibit A, Scope of Services. They will be performed in conjunction with the printed General Provisions which are attached to this letter. We will also furnish additional services as you may request and as are necessary during development of your Project. Additional services will be charged on the basis of the Exhibit B, Fee Schedule, that is in effect at the time of authorization of additional services.

Our fees for the scope of services, are identified in Exhibit A.

Reimbursable expenses, as identified in Exhibit B, Fee Schedule, and the General Provisions incurred in connection with all services will be charged on the basis of actual cost defined in the Fee Schedule.

We will invoice you monthly for services and reimbursable expenses. The above financial arrangements are on the basis of payment of our invoice within thirty (30) days of the invoice date and the orderly and continuous progress of the Project through the design phase. If you fail to make any payment due us for services and expenses within thirty (30) days after receipt of our statement, the amounts due us will be increased at the rate of one and a half percent (1-1/2%) per month from the thirtieth day; in addition, after giving seven days written notice to you, we may

suspend services under this agreement until we have been paid in full for all amounts due for services, expenses, and charges.

The time periods for the performance of our services are set forth in Exhibit A to the General Provisions. If there are protracted delays for reasons beyond our control, we would expect to negotiate with you an equitable adjustment of our compensation taking into consideration the impact of such delay, including, but not limited to, changes in price indices and pay scales applicable to the period when services are in fact being rendered.

Services are to be rendered in the customary phases which, together with the general understandings applicable to our relationship with you, are set forth in the printed General Provisions and Exhibits A and B which are attached to and made a part of this agreement. Your particular responsibilities are also set forth in the General Provisions.

The risks, rewards, and benefits of the project and our total fee for services have been independently evaluated by you and by our organization. The risks have been allocated such that you, your employees, agents, contractors, and subcontractors agree that our total liability to you for any and all injuries, claims, losses, expenses, damages or claims expenses arising out of this agreement from any cause or causes, shall not exceed the total amount of Fifty Thousand Dollars (\$50,000). Such causes include but are not limited to our negligence, errors, omissions, strict liability, breach of contract, or breach of warranty. You further agree to insert this risk allocation provision into all contracts which you enter into with respect to the project with other consultants, or with contractors and subcontractors.

If this agreement meets with your approval, please sign where noted below and return a copy to our office to serve as our authorization.

The terms and conditions of this agreement are offered for thirty (30) days. It may be necessary for us to modify these terms and conditions if you haven't executed this document within that time.

Should you have any questions, please contact Tony Eyerman, who is the project manager for this Project.

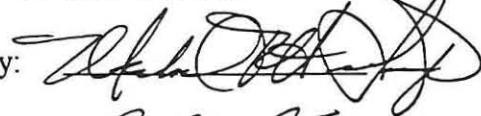
Thank you for considering us for this work. We look forward to working with you.

Very truly yours,
R. D. ZANDE & ASSOCIATES, INC.



Matt B. Tin, P.E.
Vice President

AUTHORIZATION:

By: 

Date: 9-20-95

JAE/proposal 0232CP

EXHIBIT A
SCOPE OF SERVICES

1. Services to be Performed

The proposed planning process for the community center of Union Township will address the following:

- Where are we? What are the current conditions? (Phase 1)
Completed
- Where are we going? What are our goals and intentions? How do we want the community center to look, feel and function? (Phase 2)
- How do we get there? What controls are necessary to properly implement the proposed development (development standards, overlay districts, etc.)? (Phase 3)

The following tasks will respond to these key issues in the planning and development of the center. The services we propose for the Project are:

PHASE 2. CONCEPTUAL LAND USE STUDIES

- A. Conceptual Studies - prepare alternate design studies which respond to the intentions, desires and program of the Township and site opportunities and constraints. The conceptual land use studies will illustrate alternate land use patterns and street configurations, in addition to the alternate study's response to the Township's intentions. Accompanying these studies will be the following:
 - 1. advantages and disadvantages for each
 - 2. site access
 - 3. preliminary utility ideas
- B. Character sketches and vignettes - develop graphic examples and illustrations to portray design intentions, details, ambience, important physical elements, etc. These sketches are intended to convey the visual and functional qualities and images of the proposed conceptual studies.
- C. Final Land Use Plan - select and refine one conceptual study through to a final conceptual land use plan. The purpose of this plan is to illustrate the general development configuration for the proposed community center and to provide direction for future design documents. The final land use plan will include the following:
 - 1. land use layout and street configuration (allowing for flexibility for future interchange)
 - 2. proposed rights-of-way and development setbacks
 - 3. acreages of potential land uses

4. identification of development access ways
5. phase lines
6. integration of stormwater control points
7. specific responses to zoning requirements (i.e., screening, street tree plantings, walkways, parking, etc.)

D. Preliminary Utility Plan - address preliminary utility routings, capacities, and pipe sizes. The purpose of the preliminary utility study is to identify potential problems and opportunities related to the planning and engineering of the site. It will be based on information provided by the appropriate utility agencies. It is not intended to identify every design challenge or resolve the issues. It is intended to give general direction for further investigation, study or design. The development utility plans include:

1. sanitary - identify the approximate location of the existing sanitary sewer connections. Make note of any perceived capacity problems related to the Project site regarding the existing sanitary sewers and proposed land uses.
2. water - identify the approximate location of the existing waterlines and make note of any concerns regarding capacity or pressure.
3. storm - identify the approximate tributary areas and approximate locations of the storm sewer outlets. Make note of detention requirements or concerns regarding the storm sewer outlets. The intent is to establish guidelines for future site design and proposed storm water controls.
4. gas and electric - identify the approximate location of existing gas and electric availability based on information received from the utility companies.

E. Preliminary estimate of costs for utilities.

F. Color renderings of the final land use plan and character sketches for use in public presentations, potential marketing and promotion of the development and direction with future development.

G. Public presentations - estimate seven meetings and public presentations

TOTAL FEE FOR PHASE 2

\$13,750.00

NOTE: A proposal for services and fees for the Preliminary Corridor Site Inventory and Analysis for the thoroughfare proposed from the I-75 interchange to Cincinnati-Dayton Road has been separated from this proposal and submitted to DLZ Corporation.

2. Schedule of Services:

The tasks previously described will be performed according to the following schedule:

We are prepared to begin work upon receipt of written authorization to proceed.

Future Services

Services which are not contained within this contract but which may be provided by R. D. Zande & Associates, Inc. include:

- Final thoroughfare road alignment and profiles
- Interchange design and I-75 widening design
- Individual site designs and development plans of stormwater controls
- Phase I and phase II environmental assessments
- Wetlands identification
- NPDES stormwater applications, monitoring and reporting
- Traffic studies

EXHIBIT B
FEE SCHEDULE

PERSONNEL HOURLY RATES

Manager/Director's Direct Project Time	\$95.00/Hour
Office Personnel	2.5 x Payroll Cost
Field Survey	
Two-person Crew	\$77.00/Hour
Three-person Crew	\$87.00/Hour
Four-person Crew	\$97.00/Hour

EQUIPMENT RATES

Total Station EDM w/data collector	\$40.00/Hour
CADD	\$25.00/Hour

REIMBURSABLE EXPENSES

Survey Stakes: \$0.30/stake and \$1.00 per iron pin.

Permits: Direct fees paid for filing and securing approval from local authorities.

Prints: Prints, film, reproductions, copies of deeds, copies of plans and maps, etc., other expenses which must be obtained from outside sources at direct costs.

Outside Consultant: When approved by the Client, these charges will be at 1.1 times direct cost (aerial survey, soil work, etc.).

Travel expense at mileage rate allowable for federal income tax purposes.

Lodging and Subsistence at direct cost.

GENERAL PROVISIONS

Attached to and made a part of LETTER AGREEMENT, dated August 25, 1995 between Union Township ("OWNER"), and R. D. Zande & Associates, Inc. ("ENGINEER"), in respect to the Project described therein.

SECTION 1 -- OWNER'S RESPONSIBILITIES

- 1.1. OWNER shall provide all criteria and full information as to OWNER's requirements for the Project; designate a person to act with authority on OWNER's behalf in respect to all aspects of the Project; examine and respond promptly to ENGINEER's submissions; and give prompt, written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any defect in the work.
- 1.2. OWNER shall also do the following and pay all costs incidental thereto:
 - Furnish to ENGINEER borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; zoning and deed restrictions; all of which ENGINEER may rely upon in performing services hereunder.
 - Provide access to and make all provisions for ENGINEER to enter upon public and private property.
 - Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project, any auditing service required in respect of Contractor(s) applications for payment, and any inspection and testing services the owner may require to determine if Contractor(s) are performing the work in accordance with the intent of the plans and specifications, and in accordance with any other rules, regulations, codes, ordinances, and laws applicable to the project.
 - Furnish approvals and permits from all governmental authorities having jurisdiction over the Project.
 - If more than one contractor is to be awarded for construction, designate a party to have responsibility and authority for coordinating the activities of the various contractors.
- 1.3. OWNER shall pay all costs incidental to obtaining bids or proposals from Contractor(s).

SECTION 2 -- MEANING OF TERMS

- 2.1. As used herein the term "this Agreement" refers to the Letter Agreement to which these General Provisions are attached and to these General Provisions, Exhibit "A" Scope of Services, Exhibit "B" Fee Schedule as if they were part of one and the same document.
- 2.2. The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER, but it will not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to paragraph 2.2.
- 2.3. The Payroll Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.
- 2.4. Reimbursable Expenses mean the actual expenses incurred by ENGINEER, or ENGINEER's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents and similar Project-related items in addition to those listed in Exhibit A, Scope of Services, and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, when compensation for Basic Services is on the basis of cost plus a fixed fee, Direct Labor Costs or Payroll Costs method of payment, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and other highly specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques.

SECTION 3 -- MISCELLANEOUS

- 3.1. Reuse of Documents.

All documents including Drawings and Specifications prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project and ENGINEER shall retain an ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants, and OWNER shall indemnify and hold harmless ENGINEER and

ENGINEER's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

3.2. Opinions of Cost.

Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgement as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in Paragraph 2.2. ENGINEER's services to modify the Contract Documents to bring the Construction Cost within any limitation established by OWNER will be considered Additional Services and paid for as such by OWNER.

3.3. Termination.

The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, ENGINEER shall be paid in full for any services that it has completed at the time termination becomes effective, and as follows for any services that it has not completed at such time:

- A. If termination is attributable to a breach by ENGINEER, an amount equal to the sum of reimbursable expenses and 140% of the actual payroll costs incurred by ENGINEER in performing such services, except that, if the compensation otherwise specified hereunder for any category of such services is a fixed fee or a percentage of project construction costs, ENGINEER shall not be paid any more for such category of such services than that proportion of the fixed fee or percentage of construction costs applicable thereto which equals the proportion of such category of such services that ENGINEER has completed at the time termination becomes effective.
- B. If termination is attributable to any cause other than a breach by ENGINEER, an amount equal to the sum of reimbursable expenses and 250% of the actual payroll costs incurred by ENGINEER in performing such services, except that, if the compensation otherwise specified hereunder for any category of such services is a fixed fee or a percentage of project construction costs, ENGINEER shall not be paid any less for such category of such services than that proportion of the fixed fee or percentage of construction costs applicable thereto which equals the proportion of such category of such services that ENGINEER has completed at the time termination becomes effective.

3.4. Controlling Law.

This Agreement is to be governed by the law of the principal place of business of ENGINEER.

3.5. Successors and Assigns.

- 3.5.1. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 3.5.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- 3.5.2. Neither OWNER nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.
- 3.5.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.