



REQUEST FOR PROPOSALS #C-102-12

**For the Management and Operation of the
Burholme Park Golf Center**

Issued By:

The City of Philadelphia

Department of Parks and Recreation
Michael DiBerardinis, Commissioner

&

Procurement Department
Hugh Ortman, Commissioner

**Mandatory Pre-Proposal Meeting & Tour of
Burholme Park Golf Center:**

September 9, 2011, 10:00 a.m.

Ryerss Mansion and Library

Burholme Park

7370 Central Avenue

Philadelphia, PA 19111

**SEALED PROPOSALS WILL BE RECEIVED UNTIL OCTOBER 11, 2011
AT 10:30 A.M. LOCAL TIME (THE "DEADLINE FOR SUBMITTING PROPOSALS")**

AT

**MUNICIPAL SERVICES BUILDING, 1401 JOHN F. KENNEDY BOULEVARD, ROOM 170A,
PHILADELPHIA, PA 19102**

**AND WILL BE OPENED IMMEDIATELY AFTER THE DEADLINE FOR SUBMITTING
PROPOSALS**

Questions regarding this Request for Proposals must be submitted in writing before
September 16, 2011 at 5:00 p.m. local time ("Deadline for Questions")

and directed to

Marc Wilken, Park Concessions Manager

Philadelphia Parks & Recreation,

One Parkway Building – 10th Floor, 1515 Arch Street, Philadelphia, PA 19102

or by e-mail at Marc.Wilken@phila.gov or by fax to 215-683-0205

Table of Contents

Section 1 – General Information	
1.1	Purpose of this Request for Proposals..... 5
1.2	Respondents to this RFP; the Concession Agreement and Concessionaire 5
1.3	Proposed Concession Summary..... 5
1.4	Respondent Qualifications..... 5
1.5	Mandatory Pre-Proposal Meeting and Tour of the Burholme Park Golf Center..... 6
1.6	Project Manager; Questions about this RFP..... 6
1.7	Review Entire RFP Carefully; RFP Will Be Part of Concession Agreement 7
1.8	No Obligation on City to Execute a Concession Agreement..... 7
1.9	Modifications; Late Proposals..... 7
1.10	Public Disclosure..... 8
1.11	Information and Data in this RFP Not Warranted..... 8
1.12	Provisions of RFP Become Part of Concession Agreement..... 8
Section 2 – Description Of The Burholme Park Golf Center	
2.1	Background..... 8
2.2	Financial History..... 9
2.3	Current Operating Hours and Rates..... 10
Section 3 – Concession Agreement: Specific Provisions	
3.1	Term of the Concession Agreement..... 11
3.2	Licensed Premises..... 11
3.3	Anticipated Capital Investment in the Licensed Premises..... 11
3.4	Alcohol Service..... 12
3.5	Merchandise..... 12
3.6	Vending Machines..... 13
3.7	Special Events..... 13
3.8	Public Programming; Community Relations..... 13
3.9	Operating Schedule..... 14
3.10	Personnel..... 14
3.11	Customer Service..... 14
3.12	Parking Lot..... 15
3.13	Lighting..... 15
3.14	Utilities..... 15
3.15	Equipment; Maintenance and Repair..... 16
3.16	Landscape Maintenance..... 17
3.17	Pest Controls..... 18
3.18	Storage..... 18
3.19	Pricing Points..... 18
3.20	Marketing..... 18
3.21	Signs; Department of Parks and Recreation’s Mark..... 19
3.22	Safety Measures..... 20

3.23	Security.....	20
3.24	Snow; Cleaning; Trash Collection; Recycling.....	20
3.25	Environmentally-Friendly (“Green”) Products & Practices.....	20
3.26	Drought and Water Conservation Issue.....	21
3.27	Subcontracting.....	21
3.28	Internal Controls.....	22
3.29	Concession Fee; Reporting and Payment Schedule.....	22
3.30	Alterations to the Licensed Premises.....	23
3.31	Smoking Policy.....	24
3.32	ADA Compliance.....	24
3.33	Licenses and Permits.....	24
3.34	Security Deposit.....	24
3.35	Naming of the Concession.....	25
3.36	No City Obligation.....	25
3.37	Ownership of the Licensed Premises.....	25
Section 4 – Eligibility to Submit a Proposal		
4.1	General.....	26
4.2	Management Experience and Qualifications.....	26
4.3	Records and Reports.....	26
4.4	Respondents Restricted	26
4.5	Respondents May Submit Only One Proposal.....	27
Section 5 – Proposal Submission Requirements		
5.1	Responsiveness	27
5.2	Form of Proposal	27
5.3	Submission of Proposal by “Deadline for Submitting Proposals”; Oral Presentations	28
5.4	Company Profile; Operating Experience	28
5.5	Participation of Minority, Woman and Disabled Owned Business Enterprises In City Contracts.....	30
5.6	Financial Information	30
5.7	Understanding the Purpose of this RFP and the Rights and Obligations of the Concessionaire	31
5.8	Concession Fee Proposal: MAG and Gross Revenue Percentage Fee.....	31
5.9	Capital Investments.....	32
5.10	Pro-Forma Projection.....	34
5.11	Operating Plan.....	35
5.12	Confidential Information.....	36
5.13	Objections.....	37
Section 6 – General Contract Provisions		
6.1	Ethics Requirements.....	37
6.2	Tax Requirements.....	38
6.3	Confidential and Proprietary Information of the City.....	39
6.4	Indemnification, Release and Insurance.....	39

6.5	City’s Right to Inspect	39
6.6	Default	40
6.7	Non-Indebtedness	41
6.8	Condition of the Licensed Premises.....	42
6.9	Compliance with Applicable Laws	42
6.10	Entire Agreement; No Amendment.....	42
6.11	No Joint Venture or Partnership.....	43
6.12	Severability	43
6.13	Waiver of Jury Trial	43
6.14	Place of Contract; Governing Law	43
6.15	Counterparts	44
6.16	Assignment Prohibited.....	44
6.17	Venue	44
6.18	Validity of City Approvals.....	44
6.19	Interpretation.....	44
6.20	Time of the Essence.....	44
6.21	Force Majeure Event.....	45
6.22	Philadelphia 21 st Century Minimum Wage.....	45
Section 7 – Conditions Regarding Proposals; Reservation of Rights by City; Effectiveness of Concession Agreement		
7.1	Conditions Regarding Proposals	46
7.2	Reservation of Rights	47
7.3	Concession Agreement Effectiveness	48
7.4	Acceptance of the Provisions of this RFP	48
Section 8 – Evaluations of Proposals		
8.1	Selection Committee	48
8.2	Proposal Evaluation Criteria	48
8.3	Award of Concession Agreement.....	49
8.4	Amendments of Concession Agreement.....	49
Section 9 – Signing of Proposals		49
Appendix 1: Parcel Map of the Burholme Park Golf Center		
Appendix 2: 1996 Building Plans of the Burholme Park Golf Center		
Appendix 3: Median Household Income of 5-Mile Radius Surrounding the Burholme Park Golf Center		
Appendix 4: Philadelphia Area Driving Ranges		
Appendix 5: Participation of Minority, Woman and Disabled Owned Business Enterprises in City Contracts		
Appendix 6: Sample Reporting Form for Activity Relating to Participation of Minority, Woman and Disabled Owned Business Enterprises		
Appendix 7: Indemnification, Release and Insurance		
Form A: Solicitation for Participation and Commitment Form		
Form B: Concession Fee Proposal Form		

SECTION 1 – GENERAL INFORMATION

1.1 Purpose of this Request for Proposals

The City of Philadelphia (the “City”) is pleased to issue this Request for Proposals (“**RFP**”) for a well-qualified organization to manage and operate the Burholme Park Golf Center (the “**Licensed Premises**”) located in Burholme Park in Greater Northeast Philadelphia.

1.2 Respondents to this RFP; the Concession Agreement and Concessionaire

Each firm or individual that submits a proposal in response to this RFP (a “**Proposal**”) will be considered a “**Respondent**.” The City intends to enter into negotiations for a written contract (the “**Concession Agreement**”) with the Respondent who meets the City’s objectives and selection criteria set forth in this RFP. Upon execution of the Concession Agreement by the City and the successful Respondent, the successful Respondent will become the “**Concessionaire**” under the Concession Agreement. The Concession Agreement will give the Concessionaire an exclusive right (the “**License**” or “**Concession**”) to operate and manage the Licensed Premises on City-owned land and to exercise the rights and perform the duties described in this RFP and the Concession Agreement.

1.3 Proposed Concession Summary

The Concessionaire will have complete responsibility for management and operation of the Licensed Premises, which includes the driving range, miniature golf course, batting cages and clubhouse. The responsibilities of the Concessionaire will include, but are not limited to, those set forth in this RFP in Section 3 and Section 6 and those set forth in the Concession Agreement. In consideration of the License granted to the Concessionaire under the Concession Agreement, the Concessionaire shall pay the City a concession fee as explained below in Section 3.29 and Section 5.8 of this RFP. As more fully explained below, each Respondent’s Proposal must describe, at a minimum, the management and operating practices, personnel requirements and reporting procedures that it would employ in managing and operating the Licensed Premises. The Respondent’s Proposal must also include the Respondent’s plan to invest capital in the Licensed Premises, market and advertise the Licensed Premises and enhance the Licensed Premises’ revenue opportunities.

1.4 Respondent Qualifications

As more fully detailed below, each Respondent must demonstrate substantial experience in the recreation industry or comparable industries and the financial capacity to operate and manage the Licensed Premises at the highest level of efficiency, customer satisfaction, and safety.

1.5 Mandatory Pre-Proposal Meeting and Tour of the Burholme Park Golf Center

- 1.5.1 A “**Mandatory Pre-Proposal Meeting and Tour**” will be held on the date and time, and at the location, stated on the cover page of this RFP. The purpose of the Mandatory Pre-Proposal Meeting and Tour is to review the requirements contained in this RFP and receive questions that potential Respondents may have. Potential Respondents are encouraged to RSVP to the Project Manager (defined in Section 1.6 below) regarding their attendance at the Pre-Proposal Meeting.
- 1.5.2 As part of the Mandatory Pre-Proposal Meeting and Tour, City staff will conduct a tour of the Burholme Park Golf Center.
- 1.5.3 The City believes that attendance at the Pre-Proposal Meeting and Tour is essential for successful participation in this RFP process and expects every Respondent to attend. The City reserves the right, in its sole discretion, to reject any Proposal submitted by a Respondent that does not attend the Pre-Proposal Meeting and Tour, but may, in its sole discretion, consider such a Proposal if the Respondent properly submitted an RSVP and the City: (a) deems consideration to be in the City’s best interest; or, (b) determines that the Respondent’s failure to attend was caused by circumstances reasonably beyond the Respondent’s control.

1.6 Project Manager; Questions about this RFP

- 1.6.1 The “**Project Manager**” for this RFP is Marc Wilken, Concessions Manager, Department of Parks and Recreation. The Project Manager can be reached by the following means:

Email: marc.wilken@phila.gov
Fax: 215-683-0232
Mail: One Parkway Building – 10th Floor
1515 Arch Street
Philadelphia, PA 19102

- 1.6.2 Questions concerning this RFP, including any questions concerning the Concession Agreement, may be asked at the Pre-Proposal Meeting. Otherwise, questions must be submitted to the Project Manager in writing, by e-mail, fax or letter, no later than the Deadline for Questions stated on the cover page of this RFP. Questions submitted by telephone will not be answered by the City. The City is not obligated to answer or respond to any questions received after the Deadline for Questions.
- 1.6.3 The City will answer all questions asked at the Pre-Proposal Meeting or timely submitted to the City in writing, which the City in its sole discretion, determines are material elements of the proposal process or

Concession Agreement. The City will provide its answers in writing by an addendum to this RFP prior to the Deadline for Submitting Proposals; and the City will post its answers on the following websites: <http://www.phila.gov/bids> and <http://www.phila.gov/rfp/>. The City is not bound by any oral response made by any City employee to any questions.

1.6.4 The addenda issued by the City are the City's only official method for communicating information to all potential Respondents. Respondents should check <http://www.phila.gov/bids> and <http://www.phila.gov/rfp/> before submitting a Proposal to verify that they have reviewed all the addenda relating to this RFP. Each Respondent must acknowledge in its Proposal that it has reviewed all addenda to this RFP.

1.7 Review Entire RFP Carefully; RFP Will Be Part of Concession Agreement

All Respondents are encouraged to carefully read this entire RFP and its attachments before the Pre-Proposal Meeting and before submitting a Proposal. This RFP will become part of the Concession Agreement.

1.8 No Obligation on City to Execute a Concession Agreement

This RFP does not commit the City to award a Concession Agreement. This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. No other party, including any Respondent, is granted any rights by this RFP or by submitting a Proposal in response to it.

1.9 Modifications; Late Proposals

Until the Deadline for Submitting Proposals, a Respondent may submit a modified Proposal to replace all or any portion of a Proposal the Respondent submitted previously. The City will only consider the latest version of a Respondent's Proposal. The City will not consider or evaluate late Proposals and late modifications. A Respondent may withdraw its Proposal from consideration at any time before the Deadline for Submitting Proposals. To withdraw a Proposal, the Respondent must provide written notification up to 48 hours after the submission date, to Procurement Commissioner Hugh Ortman by e-mail (hugh.ortman@phila.gov), fax (215-686-4728), or by letter at :

City of Philadelphia
Procurement Department
120 Municipal Services Building
Philadelphia, PA 19102

with a copy to the Project Manager by email, fax or letter at the address provided in Section 1.6.1.

1.10 Public Disclosure

This RFP, each Proposal, the Concession Agreement, and the written documents and communication related to them, may be subject to public disclosure under law, except as provided in Section 5.12 of this RFP.

1.11 Information and Data in this RFP Not Warranted

The City has provided information and data in this RFP to help potential Respondents understand the proposed Licensed Premises and Rental Program, the purpose of this RFP and the Concession Agreement, and to help each Respondent prepare a Proposal. The City believes the information and data in this RFP are reliable, but the City does not represent or warrant that the information or data is accurate. Potential Respondents are encouraged to conduct their own investigations into any matter of concern to them about the Licensed Premises or Rental Program, this RFP, the Concession Agreement, or their Proposal.

1.12 Provisions of RFP Become Part of Concession Agreement

The contractual provisions set forth in Section 3 and Section 6 and related Appendices of this RFP will not be negotiated or modified, unless modified in writing by the City, in its sole discretion, before the Deadline for Submitting Proposals. If a Respondent is selected as the Concessionaire, the provisions of Section 3 and Section 6 of this RFP and their corresponding Appendices will bind the Respondent as the Concessionaire. Therefore, potential Respondents are strongly encouraged to pay careful attention to the provisions of Section 3 Section 6 of this RFP and their corresponding Appendices because they will become obligations of the Concessionaire under the Concession Agreement.

SECTION 2 – DESCRIPTION OF THE BURHOLME PARK GOLF CENTER

2.1 Background

2.1.1 Location

Burholme Park (the “**Park**”) is located in a beautiful, historic section of Greater Northeast Philadelphia and is bordered to the west by Cheltenham Township, Montgomery County. Access to the Park and the Licensed Premises is at Cottman Avenue (Route 73), a major thoroughfare that connects to several highways, including Route 232, Route 1, and I-95. The entryway and parking lot of the Licensed Premises are located on a heavily traveled commercial corridor of Cottman Avenue.

2.1.2 History

The Park and its Robert W. Ryerss Museum and Library were a gift of the last descendant of the Ryerss family, a prominent Philadelphia family. The Ryerss collection gives visitors insight into a family who traveled the globe and brought back fascinating objects (particularly from Asia) in order to enlighten Philadelphia citizens about far away cultures. In addition to the museum and library, the Park provides a variety of sports fields, picnic spaces and playgrounds for visitors and sports organizations to enjoy. The Park is situated next to Jeanes Hospital and Fox Chase Cancer Center which employ approximately 4,400 individuals. One of the more noteworthy features of Burholme Park is its beautiful wooded areas, holding the Park true to its name, which means “house in a woodland setting.”

2.1.3 Existing Conditions and Site Plans

The Burholme Park Golf Center (the “**Center**”) is located at 401 West Cottman Avenue, Philadelphia, PA 19111. The Center is located on the southwest border of the Park and consists of a 6,000 sq. ft. building constructed in 1996 on a ten-acre landscaped campus. The Center features a driving range with 63 stalls (lower and upper decks) some heated and covered, an 18-hole miniature golf course with water features, fully equipped pro shop, six baseball and softball batting cages, full-service snack bar, picnic area and a one-acre parking lot (115 parking spaces). Please see **Appendix 1** for a parcel map of the Center. Please see **Appendix 2** for the 1996 Center building plans.

2.1.4 Demographics

Approximately 850,000 people live within a 5 mile radius of the Center. The Center is bordered by communities with median household incomes of up to \$84,125. Please see **Appendix 3** for a detailed breakdown of the median household incomes surrounding the Center.

2.1.5 Philadelphia Area Driving Ranges

There are five (5) driving ranges and golf/sports centers within a 10 mile radius of the Center. The only facility within a 5 mile radius of the Center is Fishers Glen, a driving range offering half the practice tees available at the Center. Please see **Appendix 4** for a map of competing driving ranges and golf/sports centers within a 10 mile radius of the Center.

2.2 **Financial History**

The following chart lists the total gross receipts by service, and fees paid to the

City by the current concessionaire for operating years 2001-2002 through 2010-July 2011.

Operating Year*	Gross Receipts: Driving Range	Gross Receipts: Miniature Golf	Gross Receipts: Batting Cage	Gross Receipts: Snack Bar	Gross Receipts: Pro Shop	Total Gross Receipts	Fees Paid To The City
2001-2002	\$464,544	\$220,118	\$99,737	\$74,010	\$54,054	\$912,463	\$135,000
2002-2003	\$386,833	\$176,096	\$76,531	\$84,733	\$70,532	\$794,725	\$141,200
2003-2004	\$350,827	\$182,407	\$95,783	\$69,423	\$41,387	\$739,827	\$147,436
2004-2005	\$285,385	\$152,165	\$87,208	\$59,640	\$54,511	\$638,909	\$153,709
2005-2006	\$301,553	\$145,367	\$97,614	\$58,441	\$42,943	\$645,918	\$160,020
2006-2007	\$275,902	\$146,755	\$101,310	\$53,612	\$42,152	\$619,731	\$166,370
2007-2008	\$219,969	\$136,633	\$83,509	\$39,172	\$36,908	\$516,191	\$172,767
2008-2009	\$213,425	\$113,414	\$82,351	\$30,996	\$15,687	\$455,873	\$179,194
2009-2010	\$205,175	\$93,902	\$67,182	\$25,404	\$12,866	\$404,529	\$190,670
2010-2011 (Partial Year)**	\$196,418	\$84,977	\$68,846	\$19,613	\$10,042	\$379,896	\$197,190

* Each operating year is from September 15 to September 14 of the following calendar year.

** The partial year for 2010-2011 reflects activities from September 15, 2010 through July 31, 2011.

The current concessionaire believes that revenues from 2006 to 2009 were negatively impacted by the proposed partial use of Burholme Park as part of The Fox Chase Cancer Center's expansion. Since then, the Cancer Center has made other plans for expansion. The City has no plans to use Burholme Park land for any purpose other than the activities currently available to Park users.

2.3 Current Operating Hours and Rates

The current concessionaire's hours of operation and rates for the 2011 season are provided below.

Hours of Operation:

Open 7 Days A Week

8:00 am through 10:00 pm

Driving Range Bucket Rates:

Small Bucket \$6.00

Medium Bucket \$8.00

Large Bucket \$10.00

Weekly Specials

Mon. to Fri. 8:00am – 10:00 am, 2 Large Buckets \$10

Women & Seniors (65+) Weekdays until 6:00 pm, Medium Buckets \$7.00

Miniature Golf Rates:
Adults \$6.00 per round
Children (under 12) \$5.00 per round

Batting Cage Rates:
\$1 per token for 12 pitches

Respondents are not required to maintain existing hours of operation and price points in their proposals. Please see Sections 3.9.1, 5.11.1.1 and 5.11.1.4 of this RFP for more information.

SECTION 3 – CONCESSION AGREEMENT: SPECIFIC PROVISIONS

3.1 Term of the Concession Agreement

The “**Initial Term**” of the Concession Agreement will start on the date the City executes the Concession Agreement and all the conditions set forth in Section 7.3 of this RFP have been completely satisfied (the “**Commencement Date**”). The Initial Term expires at 5:00 p.m. the day before the 10th anniversary of the Commencement Date. The City, at its sole discretion, may renew the Concession Agreement for up to two five-year periods (each period a “**Renewal Term**”). To renew the Concession Agreement, the City must provide written notice to the Concessionaire of the City’s desire to renew the agreement (“**Renewal Notice**”) no later than one-year before expiration of the Initial Term or then-current Renewal Term, as the case may be. In the Concession Agreement and this RFP, “**Term**” means the Initial Term and all Renewal Terms, if any. In the Concession Agreement and this RFP, the date the Concession Agreement expires, is terminated, or otherwise ends, is called the “**Concession Agreement Ending Date.**”

3.2 Licensed Premises

The License given by the City to the Concessionaire under the Concession Agreement applies only to the Licensed Premises identified in **Appendices 1 and 2** of this RFP.

3.3 Anticipated Capital Investment in the Licensed Premises

3.3.1 There have been no significant capital investments made in the Licensed Premises in the past ten years other than the recent installation of a 300 foot long, 50 foot high driving range net. The City therefore anticipates that the new Concessionaire will make a significant capital investment to update and improve the Licensed Premises. The City encourages the Concessionaire to include “green building” design elements and encourages the use of environmentally friendly products for all capital improvements and repairs.

3.3.2 Respondents are required to provide a capital investment plan with their proposals (the capital investment plan is described in Section 5.9 of this RFP). The City asks that Respondents consider the following capital improvements in the preparation of their capital investment plan submissions:

- Renovate the driving range.
- Replace the batting cages, or remove the batting cages and replace them with a new City-approved sports/recreation related activity. The City has estimates for the installation of new batting cages.
- Renovate the miniature golf course, or replace the miniature golf course with a City-approved sports/recreation related activity.
- Renovate the indoor facility services, which include the pro shop and snack bar, or replace the indoor facility services with another City-approved service, such as a virtual golf center, restaurant or special events space.
- Repair the parking lot as needed.
- Address all drainage issues.
- Improve the landscaping throughout the Licensed Premises. Repair and paint the interior and exterior of the building.

3.3.3. \$58,832 remains in a capital escrow account available for capital projects at Burholme Park Golf Center. The City intends to work with the successful Respondent to determine how to best utilize the capital escrow account funds in completing the capital plan investment projects.

3.3.4 All proposed improvements and repairs listed in Section 3.3.2 above are subject to provisions of Section 3.15 of this RFP.

3.4 Alcohol Service

Beer and wine may be served to complement food services at the Center, provided that the Concessionaire obtains the appropriate license(s). The current Concessionaire does not have a license to serve beer and wine. Beer and wine may only be served in the immediate vicinity of the Licensed Premises and/or in a cordoned-off area if exterior seating is proposed and must be consumed on the Licensed Premises within designated areas. All efforts must be made to keep alcohol consumption discreet. The Concessionaire must keep in mind that the Center is located in a public park and the consumption of alcohol should be encouraged only as an accompaniment to food.

3.5 Merchandise

3.5.1 The Concessionaire may sell merchandise at the Licensed Premises. All merchandise to be sold is subject to the City's approval. The City reserves the right to require the Concessionaire to remove any merchandise it

considers inappropriate.

- 3.5.2 The Concessionaire shall not sell or advertise counterfeit merchandise or tobacco products at the Licensed Premises. If the Concessionaire violates this Section 3.5.2, the City may immediately terminate the Concession Agreement and, as an administrative fee, retain Concessionaire's Security Deposit (the Security Deposit is described below in Section 3.34 of this RFP).

3.6 Vending Machines

- 3.6.1 The Concessionaire may, with the City's prior written approval, provide snack and beverage service through vending machines at the Licensed Premises. A maximum of four (4) vending machines may be placed at the Licensed Premises. The Concessionaire shall remove any vending machines at the direction of the City.
- 3.6.2 The City may implement food and beverage standards for vending machines on City property during the Term. In the event that the Concessionaire installs vending machines on the Licensed Premises, the Concessionaire will be required to comply with any new and/or changed food or beverage standards in the operation of vending machines. If the Concessionaire fails to comply with any new and/or changed food or beverage standards, as directed by the City, the Concessionaire shall remove any vending machines on the Licensed Premises.

3.7 Special Events

- 3.7.1 The City encourages the Concessionaire to conduct special events or programs at the Licensed Premises. However, in no event shall the Licensed Premises be closed to conduct private activities during public hours unless such activities are approved in writing by the City. The Concessionaire shall announce any closures to the public at least two weeks in advance of such private activities or events.
- 3.7.2 The City reserves the right to host up to two (2) annual events at the Licensed Premises, including benefits and other non-profit or public events. The dates of such events shall be mutually agreed upon by both parties and shall be reserved in writing not less than one month in advance.

3.8 Public Programming; Community Relations

- 3.8.1 The City encourages the Concessionaire to incorporate community programming at the Licensed Premises, (e.g., youth outreach programs, discounted/free concession services, special programs/accommodations

for senior citizens and persons with disabilities, and scholarships for youth in need). The City also encourages the Concessionaire to cooperate with local school golf coaches and athletic directors to establish a schedule to accommodate school golf programs and other youth sports programs.

- 3.8.2 The City will favorably view Proposals that provide examples of the Respondent's desire to support Burholme Park, Ryerss Mansion and Library and the surrounding community.

3.9 Operating Schedule

- 3.9.1 Respondents' Proposals must contain proposed days and hours of operation. Prior to commencing operations, the Concessionaire must obtain the City's advance approval of the Concessionaire's days and hours of operation ("**Operating Schedule**"). Once the City and Concessionaire have agreed on an Operating Schedule, the Concessionaire shall not change the Operating Schedule without obtaining the City's prior, written approval of the changes.
- 3.9.2 Despite the Operating Schedule, in the event of inclement weather, Concessionaire may open the Licensed Premises later or close the Licensed Premises earlier than the hours set forth in the Operating Schedule.

3.10 Personnel

- 3.10.1 Concessionaire shall employ, provide and train all personnel necessary and prudent for the safe, efficient, and successful management and operation of the Licensed Premises.
- 3.10.2 Concessionaire shall cause its employees to conduct themselves at all times in a courteous and professional manner that reflects well upon the City. Concessionaire shall train and supervise its employees and cause them to be well-groomed and neat. Concessionaire shall cause its employees to be outfitted in appropriate attire which clearly identifies them as Concessionaire's employees. The City may, in its sole reasonable discretion, require that the Concessionaire remove and replace any employee that does not meet the requirements of this Section 3.10.2.

3.11 Customer Service

The City expects the Concessionaire to create and maintain a high-quality amenity for the public. The City encourages the Concessionaire to implement customer service mechanisms that will enhance and maintain the satisfaction of patrons.

3.12 Parking Lot

The Concessionaire shall be required to repair and maintain the parking lot at the Licensed Premises. There are approximately 115 parking spaces available at the Licensed Premises for staff and patrons. The Concessionaire shall also be responsible for ensuring that the number, placement and specifications of all accessible spaces must comply with Americans with Disabilities Act (ADA) guidelines as well as with all City, State and Federal regulations, including striping and signage specifications.

3.13 Lighting

The Concessionaire shall be responsible for providing safe lighting throughout the Licensed Premises. The Concessionaire shall also be responsible for replacing lamps after lamp outages within 24 hours of the reported outage.

3.14 Utilities

3.14.1 The City does not represent or warrant the adequacy of the utilities and utility service available at the Licensed Premises. The Concessionaire shall, at its sole cost and expense, connect to or upgrade any existing utility service, or create a new utility system, as needed for Concessionaire's management and operations of the Licensed Premises, including but not limited to supplying and installing any necessary feeder cables, meters, wiring, gas lines, water, sewer lines, pumps, etc. Before making any new utility connection, upgrading utility service, or creating any new utility system, the Concessionaire shall obtain all permits and approvals required by Applicable Laws and shall obtain the prior, written approval of the City.

3.14.2 The Concessionaire shall promptly pay all charges and fees when and as they become due for all public utilities and utility service used at the Licensed Premises, including but not limited to: gas, steam, heat, electricity, telephone, sewer rents, water meter and water charges. In addition, the Concessionaire shall, at its sole cost and expense, promptly pay all charges and fees when and as they become due for new conduits, cables, or other means of providing or improving utility services to the Licensed Premises. Without limiting the requirements set forth above in this Section 3.14, the Concessionaire shall pay all late charges, interest, penalties, and fees arising from the Concessionaire's failure to promptly pay all charges and fees imposed by any provider of utility service to the Licensed Premises, or any installer of utility equipment at the Licensed Premises.

3.14.3 The City is not required in any manner to provide or pay for utilities or utility service to the Licensed Premises. The City is not liable for any interruption in utilities or utility service to the Licensed Premises.

3.15 Equipment; Maintenance and Repair

3.15.1 The Concessionaire shall, at its sole cost and expense, install and provide at the Licensed Premises all equipment, material, and supplies necessary for the safe, efficient and successful management and operation of the Licensed Premises.

3.15.2 Concessionaire shall not make capital improvements or alterations to or on the Licensed Premises, or install fixtures in or on the Licensed Premises, without the prior, written approval of the City. Subject to the preceding sentence, not later than the Concession Agreement Ending Date, the Concessionaire shall remove all non-permanent fixtures, equipment and supplies that the Concessionaire has installed or placed in or on the Licensed Premises. The Concessionaire shall promptly repair all damage to the Licensed Premises caused by its removal of its non-permanent fixtures and equipment. If the Concessionaire does not remove all its non-permanent fixtures, equipment, and supplies by the Concession Agreement Ending Date, then, in the City's sole discretion,

1. the City may remove the non-permanent fixtures, equipment, and supplies, and within five days after the City's notice of the removal the Concessionaire shall pay all the City's costs related to the removal, and if the Concessionaire fails to timely pay those costs the City may retain as much of the Security Deposit as necessary to offset the City's costs related to the removal, or
2. the non-permanent fixtures, equipment, and supplies will be deemed the property of the City and the City may take possession of them and use them, sell them, rent them, or otherwise dispose of them in the City's sole discretion without any obligation to compensate Concessionaire for the value of the non-permanent fixtures, equipment or supplies, and
3. Concessionaire's obligations under this Section 3.15.2 survive the Concession Agreement Ending Date.

3.15.3 Concessionaire shall, at its sole cost and expense, maintain and operate the Licensed Premises in good and safe condition and in accordance with industry standards, including, but not limited to performing all the maintenance and repair of the entire Licensed Premises, all interior and

exterior structures, building systems, utility systems and connections, sewer systems and connections, equipment, lighting, sidewalks, paved areas, vaults, gutters, curbs, and fixtures. In addition, all signs and structures on the Licensed Premises must be kept in good condition and free of graffiti. The erecting of any ancillary structures at the Licensed Premises shall be subject to the City's prior, written approval.

- 3.15.4 The Concessionaire, at its sole cost and expense, shall promptly repair all damage to the Licensed Premises caused by the Concessionaire or its employees, agents, contractors, invitees, or clients and their guests, or otherwise arising from Concessionaire's exercise of its License under the Concession Agreement.
- 3.15.5 The City is not obligated to provide any services, materials or equipment related to the Licensed Premises.
- 3.15.6 On the Concession Agreement Ending Date, Concessionaire shall leave the Licensed Premises in the same condition in which it was found immediately prior to the Commencement Date, except for reasonable wear and tear, casualty covered by the Concessionaire's insurance (with the City as loss payee), and any capital improvements and alterations that Concessionaire made and which were approved in writing in advance by the City.
- 3.15.7 All maintenance and repair of a capital nature required of the Concessionaire by this Section 3.15 is subject to the prior, written approval of the City. Concessionaire shall promptly complete all maintenance and repairs approved by the City.

3.16 Landscape Maintenance

- 3.16.1 The Concessionaire shall be required to maintain and improve the landscaping at the Licensed Premises, including, but not limited to, performing any mulching, seeding, trimming, pruning, planting, fertilization, and soil improvements. In addition, the City requires that any trees on the Licensed Premises be pruned as needed by the Concessionaire. The Concessionaire shall also be required to submit detailed plans to the City of all proposed changes to the landscape. All landscaping work other than routine maintenance to be performed at the Licensed Premises shall be of a quality which meets the City's standards and is subject to City's prior, written approval.
- 3.16.2 The Concessionaire shall be prohibited from cutting down, pruning or removing any trees on the Licensed Premises without prior, written approval from the City. Any attachments to the trees on the Licensed Premises, such as lighting, shall not be permitted.

3.16.3 To the extent that the Concessionaire applies herbicides, fungicides and insecticides on the Licensed Premises, the Concessionaire or any subcontractor hired by the Concessionaire shall comply with all Applicable Laws and limit the environmental impact of its herbicide, fungicide and insecticide use.

3.17 Pest Controls

The Concessionaire shall be responsible for regular pest control inspections and extermination, as needed. The City encourages the Concessionaire to implement integrated pest management practices at the Licensed Premises. To the extent that the Concessionaire applies pesticides to the Licensed Premises, the Concessionaire or any subcontractor hired by the Concessionaire shall comply with all Applicable Laws and limit the environmental impact of its pesticide use.

3.18 Storage

The City makes no representations that there is adequate storage space at the Licensed Premises. The Concessionaire shall be responsible for, at its sole cost and expense, obtaining any additional storage space required for the operation of the Concession. No item shall be placed upon any public space, including the ground adjacent to the Licensed Premises without the City's prior, written approval. The Concessionaire will be required to store all outdoor equipment on a nightly basis and anytime the concession is closed.

3.19 Pricing Points

Concessionaire shall provide, and obtain the City's approval, of competitive pricing points for all sales at the Licensed Premises.

3.20 Marketing

3.20.1 Concessionaire shall use its best efforts to increase the numbers of patrons using the Center using all commercially reasonable means, including but not limited to marketing and publicizing the availability and location of the Center via sales promotions, a website, the internet, newspaper ads, radio and television ads, magazines, flyers, posters, and other means of communication. Concessionaire shall create and actively distribute printed materials that highlight the Licensed Premises (collectively with other marketing and publicity activities, the "**Promotional Activities**").

3.20.2 At all times during the Term, the Concessionaire shall include on its stationery letterhead and in all print, broadcast, and electronic publicity (including but not limited to the Concessionaire's website homepage), and advertising materials related to the Licensed Premises and Rental Program, a prominent, easily legible statement that clearly indicates the

Licensed Premises is “**operated in partnership with the City of Philadelphia Department of Parks and Recreation.**”

- 3.20.3 Concessionaire’s Promotional Activities are subject to the City’s prior, written approval. Concessionaire may propose a plan for Promotional Activities and, if Concessionaire obtains the City’s approval of the plan, then as long as Concessionaire strictly complies with the approved plan Concessionaire does not need to obtain additional approval of its Promotional Activities from the City.
- 3.20.4 The Concessionaire must obtain the prior, written approval of the City prior to entering into any marketing or sponsorship agreements. If the Concessionaire violates this Section 3.20.4, the Concessionaire shall take any action that the City may deem necessary to protect the City’s interests. If the Concessionaire does not implement the necessary action requested by the City, the City may immediately terminate the Concession Agreement and, as an administrative fee, retain Concessionaire’s Security Deposit (the Security Deposit is described below in Section 3.34 of this RFP).

3.21 Signs; Department of Parks and Recreation’s Mark

- 3.21.1 The Concessionaire shall not at any time erect, hang, paint or otherwise create any sign or advertisement on the exterior of the Licensed Premises other than routine way finding signs or signs informing patrons of the Center’s activities, without the prior, written approval of the Commissioner of the Department of Parks and Recreation or his or her designee (the “**Commissioner**”). In addition, the Concessionaire shall not, without the prior, written approval of the City, erect, hang, place, or display in, on or about the Licensed Premises any utilitarian items, including but not limited to trash receptacles, that promote and advertise any product or product brand. The advertising of alcoholic beverages except as required to inform patrons of any alcoholic beverages licensed to be sold at the Center in conjunction with food service as described in Section 3.4 of this RFP shall not be permitted.
- 3.21.2 The City intends to work with the Concessionaire to design signs that attract customers to the Licensed Premises but that are also sensitive to the park setting in which the Licensed Premises is situated.
- 3.21.3 Concessionaire shall obtain all advance approvals required under Applicable Laws before Concessionaire erects, hangs, paints, or otherwise creates any sign or item in, on or about the Licensed Premises. Concessionaire shall cause each sign or item to meet all specifications required by the Department of Parks and Recreation and include the Department of Parks and Recreation’s mark.

3.21.4 In the event advertising is allowed, the following standards will apply: Any type of advertising which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful including, but not limited to, advertising that constitutes the public display of offensive sexual material shall be prohibited. Any such prohibited material displayed or placed shall be immediately removed by the Concessionaire upon notice from the City.

3.22 Safety Measures

Concessionaire shall, at its sole cost and expense, employ all necessary and prudent measures for the safe exercise of the Concession and to prevent any injury or damage to any person or property in, on or about the Licensed Premises or resulting from the Concessionaire's exercise of the License or its management and operation of the Licensed Premises. Concessionaire shall comply with all national safety guidelines and all Applicable Laws regarding the operation and maintenance of the Licensed Premises.

3.23 Security

3.23.1 Concessionaire shall, at its sole cost and expense, be responsible for all security at the Licensed Premises year round and shall provide a security plan for the Licensed Premises in accordance with plans approved by the City in writing in advance.

3.23.2 Concessionaire shall secure the Licensed Premises and its equipment and supplies every evening.

3.24 Snow; Cleaning; Trash Collection; Recycling

3.24.1 Concessionaire shall, at its sole cost and expense, clean-up and remove all snow, waste, garbage, refuse, rubbish, organic debris and litter on the Licensed Premises.

3.24.2 Concessionaire shall provide proper and easily accessible waste and recycling receptacles, approved by the City at the Licensed Premises. Separate trash containers for recyclable materials shall be provided in compliance with all Applicable Laws regarding recycling. Concessionaire shall have all trash and recycling receptacles emptied on a daily basis.

3.25 Environmentally-Friendly ("Green") Products & Practices

The City of Philadelphia is implementing ecologically-friendly initiatives to benefit the environment and the health of Philadelphia's visitors and residents. Therefore, the City strongly encourages the Concessionaire to employ ecologically-friendly practices and products in the management and operation of

the Licensed Premises, which may include, but not be limited to, the installation of Energy Star compliant appliances, the use of energy efficient, non-polluting, low noise generators, the employment of energy and water conservation measures, the use of low toxicity chemicals, preservation of natural areas, and the use of environmentally-friendly products.

The City views favorably the installation of Energy Star approved appliances and equipment, such as vending machines and commercial refrigerators, at the Licensed Premises. Energy Star products and environmentally friendly practices can be found at: <http://www.energystar.gov>.

The City also views favorably plans to use “Green Seal” eco-friendly products such as soaps, cleaners, light bulbs, paper towels, toilet paper and paint. A list of “Green Seal” certified products can be found at <http://www.greenseal.org/findaproduct/index.cfm>, and a list of environmentally-friendly products/materials is also available at: http://www.nyc.gov/html/mocs/html/programs/other_epp.shtml.

The City also encourages the Concessionaire to use chlorine free, biodegradable products such as paper towels, napkins, utensils and plates, if the Concessionaire intends to utilize any disposable products for food service at the Licensed Premises. Additionally, the City encourages the use of environmentally friendly cleaners and the sale of sustainable food products. Respondents may consult the website of the Green Restaurant Association (“GRA”) to locate GRA-endorsed products. Please visit <http://www.dinegreen.com> for more information. In addition to the use of environmentally friendly products, the City encourages the Concessionaire to train staff on environmentally friendly food service practices and to utilize a composting service to dispose of food waste.

3.26 Drought and Water Conservation Issues

The Concessionaire shall be required to adhere to all City directives and restrictions regarding drought and water conservation issues during the Term. Respondents are encouraged to describe any plans to employ water conservation methods in their proposals.

3.27 Subcontracting

3.27.1 Subject to the requirements of Section 5.5 of this RFP, Concessionaire may elect to have some services and supplies provided by a subcontractor. The Concessionaire shall obtain the prior, written approval of the Commissioner before entering into any subcontract under the Concession Agreement. Despite any subcontracts that Concessionaire may enter into, Concessionaire is not relieved of any of its obligations under the Concession Agreement.

- 3.27.2 Concessionaire shall cause all its subcontracts to specify that the City is designated as third party beneficiary of the subcontract. Concessionaire shall also cause its subcontracts to specify that the subcontractor is bound by the same requirements as the Concessionaire under the Concession Agreement including, without limitation, indemnification of the City, insurance, maintenance and preservation of records, and audit by the City.
- 3.27.3 No subcontract relieves Concessionaire of any of its obligations under the Concession Agreement. Concessionaire is as responsible for the acts and omissions of its subcontractors, or persons either directly or indirectly employed by them, as it is for the acts and omissions of Concessionaire or persons directly or indirectly employed by Concessionaire.
- 3.27.4 Any purported subcontract(s) in violation of this Section 3.27 or of any other Section in this RFP or the Concession Agreement is void.

3.28 Internal Controls

Throughout the Term, the Concessionaire shall be required to maintain a bookkeeping system to ensure the accurate and complete recording of all revenues, in a form and manner acceptable to the City. This bookkeeping system must be designed and maintained to provide detailed sales information from each sales transaction. Specifically, sales information must be recorded electronically, via a point-of-sale system, and must include, but not be limited to, the item(s) sold, time, date of sale and price of the item(s) sold. The Concessionaire must also establish and maintain a dedicated bank account for deposits of concession-related revenue and provide duplicate statements to the City upon request. All bookkeeping, accounting and internal control related records shall be maintained for a minimum of ten (10) years from the date of creation of the record.

3.29 Concession Fee; Reporting and Payment Schedule

- 3.29.1 In the Concession Agreement, “**Concession Fee**” means the combined **Minimum Annual Guaranteed Amount (“MAG”)** and **Gross Revenue Percentage Fee**, explained more fully in Section 5.8 of this RFP. During the Term of the Concession, the Concessionaire shall pay the MAG in 12 equal monthly installments or alternatively, in equal monthly installments during the prime operating months of the Center, for example, April through October.

Concessionaire shall pay the MAG and the Gross Revenue Percentage Fee monthly to the City without deduction, setoff, or counterclaim no later than the 30th day of the month following the month in which the Concessionaire receives gross revenue upon which the Gross Revenue Percentage Fee portion of the Concession Fee is based. Concessionaire

shall pay the Concession Fee by check made payable to “**City of Philadelphia**” and shall deliver the payment to the City at the address provided in Section 1.6.1.

- 3.29.2 Concessionaire shall prepare a monthly “**Accounting Report**” providing a daily count of patrons and Gross Revenues from all categories of income associated with management and operation of the Licensed Premises, including, but not limited to income associated with sublicensed services and special events at the Licensed Premises. Concessionaire shall submit the Accounting Report to the City no later than the 30th day of each month for the preceding month’s activities, together with Concessionaire’s Concession Fee payment as described above in Section 3.29.1.
- 3.29.3 Within 120 days following the end of Concessionaire’s fiscal year end, Concessionaire shall submit to the City a report that includes (1) an annual summary description of the Concessionaire’s programs and activities at the Licensed Space and plans for programs and new initiatives in the upcoming year, (2) the Concessionaire’s annual audited financial statement for the most recent fiscal year end, prepared by a Certified Public Accountant according to Generally Accepted Accounting Principles (GAAP), consistently applied, and (3) the Concessionaire’s tax return for the most recent calendar year. Concessionaire shall also promptly submit to the City all supplemental reports, documents, records, and other information that the City may reasonably require.
- 3.29.4 The requirements of Sections 3.29 survive the Concession Agreement Ending Date until Concessionaire has made the final and full Concession Fee Payment and submitted to the City the final Accounting Report and annual documents that those Sections require.

3.30 Alterations to the Licensed Premises

- 3.30.1 Except as otherwise provided in Section 3.14 of this RFP regarding utilities, the Concessionaire shall not make, cause, or permit any alterations to the Licensed Premises without the prior review and written approval of the City. The Concessionaire shall submit to the City Final Plans and Specifications for the proposed alterations and all additional information the City may reasonably request. The City’s approval of any proposed alterations may be conditioned upon a requirement that the Concessionaire provides the City with a performance and payment bond satisfactory to the City in all respects and upon other requirements the City deems necessary or prudent to protect the interests of the City.
- 3.30.2 Prior to the commencement of any construction at or on the Licensed Premises, the Concessionaire shall have an asbestos inspection performed on the existing structures at the Licensed Premises. In the event that

asbestos removal is deemed necessary, the Concessionaire, at its sole cost and expense, will remove the asbestos according to the City, State and Federal regulations.

3.31 Smoking Policy

Smoking in or on the Licensed Premises is strictly prohibited. The Concessionaire shall not permit smoking in or on the Licensed Premises.

3.32 ADA Compliance

Without limiting the general applicability of RFP Section 6.9, in connection with operation and management of the Licensed Premises the Concessionaire shall comply with the Americans With Disabilities Act (“**ADA**”). The Concessionaire is encouraged to exceed accessibility requirements whenever possible, and not simply provide the minimum level required.

3.33 Licenses and Permits

Without limiting the general applicability of RFP Section 6.9, the Concessionaire shall, at its sole cost and expense, obtain and maintain during the Term all licenses and permits related to management and operation of the Licensed Premises required under all Applicable Laws. The Concessionaire shall procure and maintain, and shall cause each of its contractors and subcontractors to procure and maintain, all necessary approvals, permits and licenses related to its respective management and operation of the Licensed Premises.

3.34 Security Deposit

3.34.1 The Concessionaire shall submit to the City a Security Deposit equal to 25% of the highest year’s MAG offered in the Respondent’s proposal. The Concessionaire shall pay the Security Deposit to the City, in the form of a certified check, contemporaneously with signing the Concession Agreement. The City shall deposit the certified check in a deposit account at a commercial bank in the name of the City of Philadelphia (the “Security Deposit Account”). The Security Deposit Account shall be available as security for:

3.34.1.1 The Concessionaire’s faithful performance of, and compliance with, all the terms and conditions of the Concession Agreement, including but not limited to all costs and expenses to hire persons or firms to complete Concessionaire’s performance of, and compliance with, the Concession Agreement;

3.34.1.2 compensation for any damages, costs, or expenses suffered or incurred by the City and the City, or either of

them, related to Concessionaire's Event of Default; or

3.34.1.3 compensation for any damage to the Licensed Premises arising in connection to any activities at the Licensed Premises under the Concession Agreement and not otherwise covered by Concessionaire's insurance (that names the City as payee).

3.34.2 The City's retention of some or all of the Security Deposit under RFP Section 3.34.1 does not relieve Concessionaire of liability for any costs or damages in excess of the full amount of the Security Deposit.

3.34.3 If at any time during the Term the City applies some or all of the Security Deposit to pay for repair of any damaged property or for any damages the City suffers arising from or otherwise related to Concessionaire's breach of the Concession Agreement, the City may send written notice of the City's retention, and promptly following Concessionaire's receipt of the City's notice Concessionaire shall promptly deposit money into the Security Deposit Account to restore it to the full amount required.

3.34.4 Within 45 days following the Concession Agreement Ending Date, the City shall return the Security Deposit to Concessionaire, less any amounts the City retains to pay the City's cost to repair any damage or pay other costs related to Concessionaire's removal of the Licensed Premises, restoration of the Licensed Premises, and ending the Concession.

3.35 Naming of the Concession

The City reserves the right to approve of any name selected by the Concessionaire for the Concession.

3.36 No City Obligation

Despite any other provision of the RFP and the Concession Agreement, the Concession Agreement does not obligate the City to appropriate or spend money at any time or for any reason.

3.37 Ownership of the Licensed Premises

At all times during the Term of the Concession Agreement, the Licensed Premises identified in **Appendices 1 and 2** of this RFP are and will remain owned by the City of Philadelphia. No provision in the Concession Agreement creates, grants, or gives to the Concessionaire any legal title, easement, leasehold, or other interest in the Licensed Premises identified in **Appendices 1 and 2** of this RFP other than a mere license.

SECTION 4 – ELIGIBILITY TO SUBMIT A PROPOSAL

4.1 General

To be eligible for award of the Concession Agreement and the License, a Respondent must demonstrate that it has the skills and capacity to successfully manage and operate the Licensed Premises.

4.2 Management Experience and Qualifications

In order to receive consideration for award of the Concession Agreement, a Respondent must demonstrate to the City's satisfaction that the Respondent has both sufficient experience and sufficient financial resources to meet the requirements set forth in this RFP ("**Management Experience and Qualifications**"). Please see Section 5.4 of the RFP for Proposal submission requirements related to Respondent's experience and qualifications.

4.3 Records and Reports

Respondents must have the capability to maintain and furnish management records and reports, as required in Sections 3.29 and 6.5, in a format satisfactory to the City.

4.4 Respondents Restricted

- 4.4.1 No Proposal will be accepted from, and the Concession Agreement will not be awarded to, any person, firm, or corporation that is in arrears or is in default of any debt to the City (including without limitation tax delinquencies), any contract obligation to the City, or any surety obligations to the City, or has failed to comply with any existing or previous contract with the City, or has failed to execute a contract that the person, firm, or corporation negotiated with the City.
- 4.4.2 The City will not accept any Proposal from, nor award the Concession Agreement to, any official, officer, director, or employee of the City. The City will not accept any Proposal from, nor award the Concession Agreement to, any person, firm, or corporation in which any official, officer, director, or employee of the City has a direct or indirect financial interest, including but not limited to a firm in which a City official's, officer's, director's, or employee's parent, grandparent, spouse, sibling, child, or relative in-law is an officer, director, or employee.
- 4.4.3 The City will not accept any Proposal from, nor award the Concession Agreement to, any Respondent that is involved in litigation against the City, including but not limited to negotiation to settle a claim against the City.

4.5 Respondents May Submit Only One Proposal

A Respondent must not be a party to more than one Proposal in connection with this RFP. If a Respondent is a party to more than one Proposal, the City may reject all those Proposals.

SECTION 5 – PROPOSAL SUBMISSION REQUIREMENTS

5.1 Responsiveness

To be eligible for award of the Concession Agreement, a Respondent's Proposal must be responsive to this RFP. For its Proposal to be considered responsive to this RFP, a Respondent must follow all the instructions in this RFP and submit all the materials and information required by this RFP.

5.2 Form of Proposal

- 5.2.1 Each Respondent must submit one original signed cover letter and Proposal and eight copies of the cover letter and Proposal. The original letter must be signed by a person with authority to bind the Respondent to all of the provisions of its Proposal, this RFP, and the Concession Agreement.
- 5.2.2 Each Respondent's Proposal must follow the form of this RFP. It must be typed on 8-1/2" x 11" paper and marked clearly on the cover page with Respondent's name and clearly refer to this RFP. Pages must be numbered clearly. Respondents must not submit Proposals in plastic sleeves or spiral binders. Illustrations may be included. Oversized drawings may be submitted, but they must be accompanied by 8½" x 11" sectionals or reduced to 8 ½" x 11". **Each Respondent must seal its Proposal in envelopes, packets, or boxes, as the case may be, to ensure confidentiality of the information prior to the Deadline for Submitting Proposals. The City will only accept Proposals in hard copy and will not accept Proposals by facsimile or by e-mail.**
- 5.2.3 Wherever a Respondent is providing information required by this RFP, the Respondent must identify the information by using the corresponding Section number, Appendix, or Form of this RFP that requires the information.
- 5.2.4 Each Respondent's Proposal must include the following (please see the referenced sections of this RFP for an explanation of the items listed below):
1. Signed cover letter;

2. Description of company, organization, and personnel (see Section 5.4);
3. Management Experience and Qualifications, and at least three references (see Section 5.4);
4. Completed Solicitation for Participation and Commitment Form (see Section 5.5);
5. Financial Information (see Section 5.6);
6. Statement of Understanding of the Purpose of this RFP (see Section 5.7);
7. Completed Concession Fee Proposal Form (see Section 5.8);
8. Initial Capital Investment Plan (See Section 5.9);
9. Pro-Forma (see Section 5.10);
10. Operating Plan (see Section 5.11).

5.2.5 Each Respondent must print the following information on the outside of the envelope, packet, or box in which it submits its Proposal:

1. Respondent's name and address;
2. Identification as "Proposal for the Management and Operation of the Burholme Park Golf Center"; and,
3. The Deadline for Submitting Proposals, as stated on the cover page of this RFP.

5.3 Submission of Proposal by "Deadline for Submitting Proposals"; Oral Presentations

- 5.3.1 Each Respondent must submit its Proposal to the City no later than the Deadline for Submitting Proposals. Each Respondent is solely responsible for delivery of its Proposal on time and to the proper location. The "Deadline for Submitting Proposals" and the location for submitting Proposals are set forth on the cover page of this RFP.
- 5.3.2 The City may request one or more Respondents to make a supplemental oral presentation to City officials after the Deadline for Submitting Proposals. The date and time of the oral presentations will be determined by the City.

5.4 Company Profile; Operating Experience

Each Respondent must, if available:

- 5.4.1 Submit a resume or detailed description of the Respondent's professional qualifications, demonstrating extensive experience in the industry, or affiliation with individuals and firms, or either of them, with that expertise. The resume or detailed description must include the number of Respondent's employees and number of years Respondent has been in business.

- 5.4.2 Submit personal and/or company safety records for operations related to this type of facility or similar facilities.
- 5.4.3 Provide a description, with photographs, of similar sports/recreation facilities, including locations Respondent has operated or is currently operating.
- 5.4.4 Explain its corporate structure and ownership.
- 5.4.5 Provide the names and addresses of all owners and corporate officers of the entity submitting the Proposal.
- 5.4.6 Provide its federal Employer Identification Number.
- 5.4.7 Identify all parent, subsidiary, affiliate, and partnership relationships with other businesses (collectively, “**Related Companies**”).
- 5.4.8 If Respondent is a partnership or a joint venture, give the date of the partnership or joint venture agreement, the county and state where the agreement was filed, and list the name and address of each partner or joint venture entity and the percentage of ownership of each partner or joint venture entity. If Respondent is a corporation or limited liability company, the Respondent must provide a copy of its articles of incorporation, give the date and state of the company’s organization and incorporation, and list the names and addresses of the company’s board of directors and officers, or managers or members, as the case may be.
- 5.4.9 Provide at least three recent references with whom the Respondent has worked and who can describe such matters as the Respondent’s financial and operational capability (e.g., operating quality driving ranges). The Respondent must include the name of the reference entity, a description of the nature of the listed reference’s experience with the Respondent, and the name, title, address, email address, and telephone number of a contact person at the reference entity.
- 5.4.10 List all contracts the Respondent and all its Related Companies have had with the City in the last five years.
- 5.4.11 If Respondent or any of its Related Companies has filed for bankruptcy protection in the last five years (or had a bankruptcy petition filed against it), Respondent must provide a brief explanation of the circumstances and outcome of the filing.
- 5.4.12 List all surety companies that have previously issued performance bonds on behalf of Respondent or any of Respondent’s Related Companies, the addresses of each surety company, the amount of each bond, and the term

of each bond. List any performance bonds that were called in the last five years due to unsuccessful completion of the contract.

5.5 Participation of Minority, Woman and Disabled Owned Business Enterprises In City Contracts

- 5.5.1 The Concession Agreement is subject to Mayor's Executive Order, No.02-05 and No. 14-08 relating to the participation of minority-owned, women-owned, and disabled-owned businesses (collectively, "M/W/DSBEs") in City contracts. Respondents are required to respond to the requirements specified in **Appendix 5** of this RFP and should submit the "**Solicitation for Participation and Commitment Form**" (the "**S & C Form**") attached to this RFP as **Form A** to identify its solicitations and any commitments made with M/W/DSBEs to participate in the Concession Agreement. Respondents must indicate on the S & C Form the work being performed and the dollar amount and percentage of work being performed by each M/W/DSBE firm. Respondents are also required to submit documentation of their "Good Faith Efforts" (as more fully described in **Appendix 5**), whether or not they have achieved any commitments with M/W/DSBEs. For a listing of firms certified as M/W/DSBEs, please visit <http://oeo.phila.gov/directory.asp> . The City may, in its sole discretion, reject any Proposal that does not include a completed S & C Form.
- 5.5.2 The Concessionaire shall submit to the City quarterly reports that summarize the Concessionaire's activities related to their M/W/DSBE contracts. The reports will serve as a mechanism to ensure the Concessionaire is in compliance with commitments provided in the S & C Form. Please see **Appendix 6** for a sample reporting form.

5.6 Financial Information

- 5.6.1 Each Respondent must provide evidence of its financial capacity and stability; an accountant-prepared financial statements for the most recent fiscal year ended, prepared in accordance with generally accepted accounting principles, consistently applied; and a federal tax return. Each Respondent must also provide creditor reference(s) and a description of the loans or lines of credit made available to the Respondent and dates that the accounts were established as well as the name of the Respondent's account officer(s). By submitting a Proposal, each Respondent authorizes the City to contact the Respondent's creditor references regarding that information.
- 5.6.2 Each Respondent shall identify the intended source of all funds proposed to be invested in the Licensed Premises.

5.7 Understanding the Purpose of this RFP and the Rights and Obligations of the Concessionaire

Sections 3, 4 and 6 of this RFP set forth the minimum requirements that the Concessionaire must fulfill. Each Respondent must provide a brief narrative that demonstrates its understanding of this RFP's goals and objectives, the nature and scope of the work involved, and how Respondent's expertise will enable Respondent to fulfill the goals and objectives of this RFP and maximize the potential of the Licensed Premises. Also, each Respondent must describe its approach to the proposed Concession, including Respondent's work plan and strategy.

5.8 Concession Fee Proposal: MAG and Gross Revenue Percentage Fee

5.8.1 Using **Form B**, each Respondent must propose a **MAG** payment to the City for the right to manage and operate the Licensed Premises. The City urges each Respondent to include an escalation each year (compounded annually) in the MAG over the Term of the Concession Agreement.

In addition to the MAG, also using **Form B**, each Respondent must propose a **Gross Revenue Percentage Fee** to be paid monthly to the City for management and operation of the Licensed Premises.

5.8.1.1 In this RFP and the Concession Agreement, "**Gross Revenues**" means all revenue received by the Concessionaire from management and operation on the Licensed Premises or exercise of the License, from all sources and however characterized. Without limiting the definition of Gross Revenues immediately above, Gross Revenues include, but are not limited to, the following: revenue from the sports/recreation activities at the Center; revenue from food and beverage service operations, including restaurants, snack bars or vending machines; revenue from special events, including rental fees and food and beverage sales; revenue from merchandise sales; revenue from sublicensed operations, including food and beverage services; and all other fees, sales, rentals, charges, or costs imposed by the Concessionaire, however characterized, for use of any of the Licensed Premises, or for goods or services Concessionaire provides at or from the Licensed Premises.

5.8.2 Respondents may, in addition to completing and submitting **Form B**, submit on a separate schedule, an alternative Concession Fee proposal for the right to operate and manage the Licensed Premises. The City may, in its sole discretion, reject the Respondent's alternative Concession Fee proposal.

5.9 Capital Investments

5.9.1 **Available Capital Funding.** As stated previously in Section 3.3.3 of this RFP, \$58,832 remains in a capital escrow account available for capital projects at Burholme Park Golf Center. The City intends to work with the successful Respondent to determine how to best utilize the capital escrow funds at the Licensed Premises.

5.9.2 **Initial Capital Investment Plan.** Each Respondent must submit in its Proposal a plan that documents its proposed capital investment at the Licensed Premises at the Commencement Date and during the Initial Term of the Concession Agreement (“**Initial Capital Investment Plan**”). The Initial Capital Investment Plan must include the following:

1. A description of the capital investment projects to be undertaken and projected costs of those projects. Please see Section 3.3.2 for a list of projects the Respondent may want to consider including in its Initial Capital Investment Plan.
2. A projected timetable for all capital investment projects. The timetable may provide approximate completion dates such as “first quarter 2012” for individual projects or group projects in phases such as “Phase I Projects” and provide anticipated project phase completion dates.
3. Description of the sustainable and green practices that will be incorporated in the proposed capital improvement projects.
4. Description of the Respondent’s ideas to design aesthetically pleasing structures that blend with the surrounding park landscape.

5.9.3 As stated previously in this RFP, the Concessionaire shall be required to supply all equipment and materials necessary for the successful operation of the Concession. Respondents should differentiate in their Proposals between equipment to be purchased as part of the Initial Capital Investment Plan versus personal expendable items. Personal expendable items, such as kitchen equipment and golf ball dispensing machines, should not be considered capital. Capital investment projects shall not include routine maintenance and repairs required to be performed in the normal course of management and operation of the Concession. For example, routine painting and repair of minor wear and tear is considered routine maintenance and would not be accepted as capital investment. The City reserves the right to determine whether certain repairs, equipment and material purchases can be accepted as capital improvements. Personal expendable items not considered part of the Initial Capital Investment Plan shall remain the property of the Concessionaire. Personal expendable items should be listed on a separate schedule in the Respondent’s Proposal

under the category of “**Additional Investment.**”

5.9.4 **Final Plans and Specifications due during the Term of Agreement.**

The Concessionaire will be required under the Concession Agreement to submit a detailed plan for all the improvements to the Licensed Premises during the Term of the Agreement. Prior to the commencement of the installation and/or construction of any alterations to the Licensed Premises, the Concessionaire shall submit to the City, for its review and approval, the final plans and specifications (the “**Final Plans and Specifications**”). The Final Plans and Specifications shall be detailed in the then-current industry standard for the subject work and prepared by licensed architects or engineers. The Final Plans and Specifications will include a detailed and mandatory capital completion schedule, cost estimates and adherence to Applicable Laws. In the event the Concessionaire fails to comply with the mandatory capital completion schedule, the City shall provide the Concessionaire a one-time opportunity to revise the mandatory capital completion schedule. If the Concessionaire fails to comply with the revised, mandatory capital schedule, the City reserves the right to terminate the Concession Agreement.

5.9.5 **Additional Capital Investment Escrow Account.** In addition to the Initial Capital Investment Plan, Concessionaire shall be required to make additional expenditures (the “**Additional Capital Investment(s)**”) in amounts sufficient to perform and complete, or cause the performance and completion of all improvements to the Licensed Premises which may, in the City's reasonable judgment, be required in order to maintain the Licensed Premises in good order, condition and repair; these improvement items, which are in addition to the Final Plans and Specifications, shall be referred to herein as the “**Additional Capital Improvement Item(s)**”. In order to insure Concessionaire's performance of each of the Additional Capital Improvement Items, Concessionaire is required to establish and maintain the **Additional Capital Investments Escrow Account**, in accordance with Section 5.9.6 below.

5.9.5.1 Each Additional Capital Improvement Item must be performed and completed, within the reasonable time periods as are specified by the Commissioner, and in accordance with this Section 5.9.

5.9.6 Upon completion of the Initial Capital investment Plan projects, and continuing through the expiration or prior termination of the Concession Agreement, Concessionaire shall deposit five percent (5%) of the previous month's Driving Range Gross Receipts to the **Additional Capital Investments Escrow Account**. The account shall be established and maintained by the Concessionaire with a local commercial bank or other third party approved in writing by the Commissioner or designee (the “**Escrow Agent**”).

5.9.6.1 Concessionaire shall cause no money to be withdrawn from the Additional Capital Investments Escrow Account (including interest earned on any money in that account) until such time(s) as the Commissioner has provided the Concessionaire and the Escrow Agent with a written statement approving such withdrawal and the amount thereof. The Commissioner shall issue such written approvals within a reasonable period of time after the Commissioner has received a written request from Concessionaire to make the subject withdrawal on account of an Additional Capital Improvement Item performed and completed by or on behalf of Concessionaire in accordance with this Section 5.9, which request must include a calculation of the Additional Capital Investment that Concessionaire has made in performing the subject Additional Capital Improvement Item.

5.9.6.2 All costs, expenses and other charges associated with the Additional Capital Investments Escrow Account (including, without limitation, the Escrow Agent's fees) shall be borne solely by the Concessionaire.

5.9.6.3 Upon the expiration or sooner termination of the Concession Agreement for any reason, Concessionaire shall cause all money remaining in the Additional Capital Investments Escrow Account, including interest earned thereon, to be paid by the Escrow Agent to the entity specified by the City.

5.9.6.4 Concessionaire's obligation to make the Additional Capital Investments and perform each of the Additional Improvement Items in accordance with this Section 5.9, shall in no way be limited by or to the sum of money, if any, in the Additional Capital Investments Escrow Account.

5.9.7 Performance Bond. The City may request that the Concessionaire at its sole cost and expense, from the Commencement Date through and including the date on which the Initial Capital Investment Plan projects and/or Additional Capital Investment projects are completed to the City's written satisfaction, provide the City with a performance bond (in a form approved by the City), in a principal amount equal to the cost of individual approved projects or the cost of all projects within a project phase to be completed in the Initial Capital Investment Plan.

5.10 Pro-Forma Projection

Each Respondent must include in its Proposal a ten-year pro-forma projection of

the Gross Revenues by activities and Concession Fees for the Licensed Premises. The pro-forma projection must include explanations of the assumptions used in its formulation.

5.11 Operating Plan

5.11.1 All Proposals must include a detailed operating plan for management and operation of the Licensed Premises (“**Operating Plan**”). The Operating Plan is subject to the City’s prior, written approval. At a minimum, the following must be included in the Operating Plan:

- 5.11.1.1 A detailed description of how the Respondent would manage and operate the Licensed Premises, including, but not limited to: intended use of the Licensed Premises, Operating Schedule, services to be provided, landscaping plans, maintenance, plans for deliveries and rubbish removal, cleaning schedules, staffing requirements, equipment needs, any plans to install energy efficient appliances that have the Energy Star seal of approval and or water conserving appliances, any plans to use the “Green Seal” or other environmentally friendly products, methods or devices.
- 5.11.1.2 Food and beverage menu items and whether healthy food choices will be provided.
- 5.11.1.3 Merchandise to be sold.
- 5.11.1.4 Detailed list of all proposed prices and rates.
- 5.11.1.5 Business development and marketing plan for maximizing the number of patrons of the Licensed Premises.
- 5.11.1.6 Scheduling and programs dedicated for youth sports/recreational programs.
- 5.11.1.7 Plans that demonstrate an awareness of the role of the Concession as an integral part of the surrounding community and a commitment to cooperate with and support park administrators, park users and the community.
- 5.11.1.8 Identification of Respondent’s on-site management team and description of the team’s background and experience.
- 5.11.1.9 An estimated number of full-time and seasonal employees and positions the employees will fill in Concessionaire’s management and operation of the Licensed Premises.

- 5.11.1.10 The customer service standards Respondent deems necessary to enhance and maintain the satisfaction of patrons and the mechanisms the Respondent will employ to meet those standards. Respondent must also describe tools to be used to measure customer service satisfaction with the services Concessionaire offers under this Concession. The tools may include customer evaluations or survey forms. Further, each Respondent must explain how it would improve the quality of services offered if the above tools indicate a need to do so.
- 5.11.1.11 Safety procedures and precautions required for the operation of the Concession and safety of patrons. Safety procedures must include, but not be limited to, a detailed outline of maintenance schedules as well as applicable staff qualifications and certifications.
- 5.11.1.12 Security plan for the Licensed Premises.
- 5.11.1.13 Plans to upgrade or test the performance of the irrigation equipment in order to maximize efficiency, eliminate uncontrolled releases of water from water retention structures, regularly check for and remedy leaks in a timely fashion, eliminate non-target watering, to install part-circle irrigation heads where possible, recycle gray water and runoff, and schedule watering around peak evaporation times.
- 5.11.1.14 Description of any other requirements not mentioned in Section 3 of this RFP that are required to ensure the safe, sanitary and legal management and operation of the Licensed Premises.

5.12 Confidential Information

- 5.12.1 If a Respondent chooses to include in its Proposal material of a confidential nature, then the Respondent must mark the confidential material as noted below and explain why it is confidential. The City will exercise reasonable care to honor confidentiality requests, subject to Applicable Laws.
- 5.12.2 Each Respondent must identify the pages of its Proposal that contain confidential information by prominently marking those pages as explained below. Respondents are reminded that the mere designation of information as confidential does not necessarily make it so under Applicable Laws. The Pennsylvania Right to Know Act may require the City to disclose certain information regardless of whether the Respondent has designated it as confidential. The City recommends that each Respondent confer with legal counsel regarding the disclosure

requirements of the Right to Know Act. Respondents should include the following notice in the front of each copy of their Proposal:

NOTICE

The information on pages _____ of this Proposal, identified by the words “**Confidential Proprietary Information**” in boldface type of at least 12 points in the top right-hand corner of each page, contain proprietary information that the Respondent desires not be disclosed. The Respondent requests that such information be used only for evaluation of Respondent’s Proposal, and not be disclosed to the public except as may be required by Applicable Law.

5.13 Objections

In its Proposal, a Respondent may state objections to the requirements of this RFP. Any objections must be stated in a separate section of the Proposal, must identify the specific provisions and language of this RFP that Respondent objects to, must state the reason(s) for each objection, and must propose alternative provisions. **By not objecting to a provision and submitting a Proposal in response to this RFP, a Respondent irrevocably agrees that the provision is acceptable to it.** The City may, in its sole discretion, evaluate a Proposal, in part, on the number and nature of objections made by the Respondent to the provisions of this RFP. In no event will the City’s selection of a Respondent for further negotiations leading to a Concession Agreement constitute acceptance by the City of any objection or proposed alternative provision set forth in that Respondent’s Proposal.

SECTION 6 – GENERAL CONTRACT PROVISIONS

6.1 Ethics Requirements

- 6.1.1 The Concessionaire and its sub-licensees, contractors, and subcontractors must not offer or give, directly or indirectly, anything of value to any City official, officer or employee, including any gift, gratuity, favor, entertainment or loan, the receipt of which would violate Executive Order No. 3-11 issued by the Mayor of Philadelphia on January 25, 2011. Similarly, the Concessionaire and its sub-licensees, contractors, and subcontractors must not offer or give, directly or indirectly, anything of value to any City officer, director, or employee which if received by any City official, officer, or employee would violate Executive Order No. 3-11.
- 6.1.2 Any person who offers or gives anything of value to any City official, officer, or employee, the receipt of which violates Executive Order No. 3-

11, is subject to sanctions with respect to City contracts. The sanctions may range from disqualification from participation in particular City contract(s), to debarment, depending on the nature of the particular violation. The terms and duration of the sanctions will be determined (after consultation with the City's Chief Integrity Officer) by the Procurement Commissioner with respect to contracts subject to competitive bidding or by the Director of Finance with respect to non-competitively bid contracts.

- 6.1.3 If the Concessionaire or its sub-licensees, contractors, and subcontractors offer or give, directly or indirectly, anything of value to any City officer, director, or employee in violation of Section 6.1.1 above, the Concessionaire will commit an Event of Default under the Concession Agreement. In addition, the City shall return or discard the item given to the City officer, director, or employee.

6.2 Tax Requirements

- 6.2.1 Any contractor, vendor of goods, or provider of services, who bids on and is awarded a contract by the City is subject to Philadelphia's business tax ordinances and regulations. The Concession Agreement is entered into in the City of Philadelphia, and the Concessionaire's delivery, sale, or rental of goods in the City, or performance of services in the City, is "doing business" in the City and subjects the Concessionaire to the City's tax requirements, including without limitation one or more of the following taxes:
- a. Business Privilege Taxes
 - b. Net Profits Tax
 - c. City Wage Tax
- 6.2.2 Promptly following the Commencement Date, the Concessionaire, if not already paying the taxes listed above, shall apply to the City of Philadelphia Department of Revenue for a tax account number and to file appropriate business tax returns as required by Applicable Law. Applications may be submitted through the Business Services Portal at <http://business.phila.gov/Pages/Home.aspx> or to the Department of Revenue at: Municipal Services Building, Public Service Concourse, 1401 John F. Kennedy Blvd., Philadelphia, PA 19102. Questions about the application and the taxes should be directed to the Taxpayer Service Unit at: (215) 686-6600.
- 6.2.3 In addition to the City's tax requirements, the Concessionaire shall timely pay all federal, state, and local taxes, assessments, and levies, however characterized (collectively, "**Assessments**") that apply to the Concession, the Concession Agreement, and the Concessionaire's activities under the Concession Agreement. The Concessionaire is solely liable for all late

charges, interest, penalties, and fees arising from the Concessionaire's failure to timely pay all Assessments.

- 6.2.4 The City is not obligated at any time during the Term to pay any Assessments related to the Concession, the Concession Agreement, or the Concessionaire's activities under the Concession Agreement.
- 6.2.5 The Concessionaire's failure to comply with the requirements of the Concession Agreement regarding payment of Assessments, or Concessionaire's failure to otherwise pay an Assessment as required by Applicable Laws, is an Event of Default of the Concession Agreement.

6.3 Confidential and Proprietary Information of the City

The Concessionaire shall treat all information it obtains from the City that is not generally available to the public as confidential and proprietary to the City. The Concessionaire shall exercise all reasonable precautions to prevent any confidential and propriety information it obtains from the City from being disclosed to any other person or entity. The Concessionaire shall promptly indemnify, defend, and hold harmless the City from and against all liabilities, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from or related to any use or disclosure of any City confidential or proprietary information by the Concessionaire or its employees, or by any person acquiring that information, directly or indirectly, from the Concessionaire or its employees. The Concessionaire's obligations under this Section 6.3 survive the Concession Agreement Ending Date.

6.4 Indemnification, Release and Insurance

The Concessionaire shall promptly indemnify, defend, and release the City, as set forth in **Appendix 7** to the RFP. In addition, on or before the Commencement Date the Concessionaire shall obtain and, throughout the Term, shall maintain the types and minimum amounts of insurance set forth in **Appendix 7**. As a condition precedent to the effectiveness of the License the City gives to Concessionaire under the Concession Agreement, Concessionaire must provide the City of Philadelphia Risk Manager, on behalf of the City, with a certificate of insurance that shows the Concessionaire has obtained the types and required amounts of insurance. Concessionaire must cause copies of the certificate of insurance to be delivered to all the officials at the addresses specified in **Appendix 7**.

6.5 City's Right to Inspect

- 6.5.1 Concessionaire shall keep and make available complete and accurate books of accounts, financial records, and other records (collectively, "**Books and Records**") within the City of Philadelphia relating to the

Concessionaire's management and operation of the Licensed Premises and Rental Program. The Concessionaire shall maintain its Books and Records in accordance with generally accepted accounting principles consistently applied.

6.5.2 The City may inspect and audit all of the Concessionaire's Books and Records and Concessionaire's affairs at all reasonable times at the Department of Parks and Recreation's offices, or other place the City may reasonably require.

6.6 Default

6.6.1 The Concessionaire will commit an "**Event of Default**" under the Concession Agreement if:

- a. Concessionaire fails to timely pay to the City in full the Concession Fee; or
- b. Concessionaire fails to timely comply with any other obligation applicable to Concessionaire under the Concession Agreement.

6.6.2 If the Concessionaire commits an Event of Default under Section 6.6.1 above, and,

- a. in the case of an Event of Default under Section 6.6.1.(a), Concessionaire fails to cure the Event of Default within 5 days after receiving written notice from the City of the Event of Default,
- b. in the case of an Event of Default under Section 6.6.1.(b), Concessionaire fails to cure the Event of Default within 30 days after receiving written notice from the City of the Event of Default,
- c. in the case of an Event of Default under Section 6.6.1.(b) that cannot reasonably be cured within 30 days after receiving the City's written notice of the Event of Default, Concessionaire fails to actively start to cure the Event of Default within the 30-day period and then continuously and diligently pursue the cure to completion in not more than 90 days after receiving the City's written notice of the Event of Default, or
- d. in the case of any Event of Default that poses a threat of imminent harm to persons or property,

then without further notice the City may, in its absolute discretion, immediately suspend or terminate the Concession Agreement, in whole or in part, without liability to City.

- 6.6.3 In addition to the City's rights and remedies under Section 6.6.2 above, Concessionaire shall pay all damages, costs, and expenses suffered or incurred by the City arising from or related to the Event of Default. Also, if Concessionaire commits an Event of Default and fails to cure the Event of Default within the applicable cure period (if any), then the City may exercise all rights and remedies available to it at law or in equity, in addition to the remedies available to the City under the Concession Agreement. The City may exercise its remedies under the Concession Agreement, at law, or in equity, separately, cumulatively, successively, and repeatedly, in the City's absolute discretion.
- 6.6.4 The City's failure or delay in providing written notice of an Event of Default to Concessionaire does not relieve or excuse the Concessionaire from any liability arising from or related to the Event of Default and does not waive any of the City's rights or remedies upon delivering written notice to the Concessionaire of the Event of Default and Concessionaire's failure to cure the Event of Default in the applicable cure period provided under Section 6.6.2, or in the case of an Event of Default that poses a threat of imminent harm to person or property, immediately and without notice.

6.7 Non-Indebtedness

- 6.7.1 The Concessionaire represents and warrants that Concessionaire, and all entities under common control with the Concessionaire or controlled by it are not as of the Commencement Date indebted to the City, and Concessionaire shall not at any time during the Term of the Concession Agreement be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), water bills, sewer bills, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. The Concessionaire shall remain current during the Term of the Concession Agreement with all such payments and shall inform the City upon receipt of any notices of delinquent payments. In addition to any other rights or remedies available to the City under the Concession Agreement, at law, or in equity, the Concessionaire acknowledges that any breach or failure to conform to Concessionaire's representation, warranty, and covenant in this Section 6.7.1 may, at the option of the City, result in the termination of the Concession Agreement. In addition, Concessionaire understands that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. § 4904.
- 6.7.2 The Concessionaire shall cause its subcontractors (if any) to make a certification to the City similar to that made by the Concessionaire in Section 6.7.1 above. The Concessionaire shall include the provisions in Section 6.7.1 in each subcontract under the Concession Agreement, with

appropriate adjustment for the name of the subcontractor.

6.8 Condition of the Licensed Premises

The City makes no representation or warranty regarding the condition of the Licensed Premises, including their suitability for the Concession. Concessionaire accepts the License given by the Concession Agreement and agrees to use the Licensed Premises in their “AS IS” condition for the purposes set forth in the Concession Agreement. Concessionaire submitted its Proposal and enters into the Concession Agreement solely based on Concessionaire’s own investigation of the condition of the Licensed Premises.

6.9 Compliance with Applicable Laws

In the RFP and Concession Agreement, “**Applicable Law**” and “**Applicable Laws**” mean all present and future Commonwealth, federal, and municipal laws, ordinances, regulations, orders, rules, official opinions and interpretations, and requirements, that apply to any of the following: the Concession Agreement, the License, the Concessionaire, the Licensed Premises, and Concessionaire’s exercise of the License and operations of the Licensed Premises. The Concessionaire shall promptly comply with all Applicable Laws, including but not limited to:

- 6.9.1 The Fair Practices Ordinance of the Philadelphia Code (Chapter 9-1100), (which prohibits discrimination against any person on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap, or marital status) and the Mayor's Executive Order No. 4-86 (which prohibits, among other things, discrimination against persons with AIDS in employment and services), as they may be amended from time to time;
- 6.9.2 All federal, Commonwealth, and local requirements regarding the application, obtaining, and maintaining licenses, certificates, permits, and other approvals required for operation of the Concession; and
- 6.9.3 The tax requirements of all governmental authorities having jurisdiction over the Concession, the Concession Agreement, and Concessionaire’s operations under the Concession Agreement.

6.10 Entire Agreement; No Amendment

- 6.10.1 The Concession Agreement is the complete, final, and exclusive expression of the City’s and Concessionaire’s agreement about the Concession. All prior negotiations and agreements, if any, between the City and Concessionaire relating to the Concession are superseded by and merged into the Concession Agreement.

6.10.2 The Concession Agreement may not be amended or modified except in writing signed by the City officials who signed the original Concession Agreement and also signed by Concessionaire's duly authorized officers. Any proposed or purported amendment of the Concession Agreement made without strictly complying with this Section 6.10.2 is void. No course of conduct between the City and Concessionaire, and no industry custom, is effective to amend the Concession Agreement or waive any of the Concessionaire's obligations under the Concession Agreement.

6.11 No Joint Venture or Partnership

The Concession Agreement does not create a joint venture or partnership between the City and the Concessionaire. The Concessionaire is an independent entity and is not an agent of the City.

6.12 Severability

The provisions of the Concession Agreement are severable. If any provision of the Concession Agreement is held by a court of competent jurisdiction to be invalid or unenforceable for any reason, then that provision is deemed adjusted to the minimum extent necessary to cure the invalidity or unenforceability. Except as provided in the next sentence, the invalidity or unenforceability of one or more of the provisions in the Concession Agreement does not affect any other provision of the Concession Agreement. If any provision of the Concession Agreement is held invalid or unenforceable so that the City is deprived of a material consideration to it under the Concession Agreement, however, then the City may, in its absolute discretion, terminate the Concession Agreement without liability to the Concessionaire.

6.13 Waiver of Jury Trial

THE CONCESSIONAIRE KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVES TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING UNDER OR RELATED TO THE CONCESSION AGREEMENT (INCLUDING BUT NOT LIMITED TO ANY TORT CLAIM). THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE CITY TO ENTER INTO THE CONCESSION AGREEMENT. THE CONCESSIONAIRE SHALL INCLUDE A PROVISION IN ALL ITS SUBCONTRACTS UNDER THE CONCESSION AGREEMENT UNDER WHICH ITS CONTRACTORS ALSO WAIVE TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING UNDER OR RELATED TO THE CONCESSION AGREEMENT (INCLUDING BUT NOT LIMITED TO ANY TORT CLAIM).

6.14 Place of Contract; Governing Law

The Concession Agreement is made in Philadelphia, Pennsylvania, is governed by Pennsylvania law, and is to be interpreted in accordance with Pennsylvania Law without reference to choice of law provisions.

6.15 Counterparts

The Concession Agreement may be executed by the parties in any number of counterparts, each of which is an original and all of which together are one and the same document.

6.16 Assignment Prohibited

Except as set forth in Section 3.27 above, Concessionaire shall not assign the Concession Agreement or any of its rights or obligations under the Concession Agreement. Any attempted assignment by Concessionaire in violation of this provision is void and is deemed an offer by Concessionaire to the City to immediately terminate the Concession Agreement, which the City may accept or decline in the City's sole discretion.

6.17 Venue

Concessionaire agrees that all claims arising under or related to the Concession Agreement must be filed in the Court of Common Pleas of Philadelphia County. Concessionaire consents to the exclusive jurisdiction of the Court of Common Pleas of Philadelphia County and Pennsylvania courts of appeal. Concessionaire waives its right to file a motion to remove venue for any proceeding to another jurisdiction or to any federal court.

6.18 Validity of City Approvals

6.18.1 Unless expressly specified otherwise in the Concession Agreement, any review, approval, permission, or consent that the Concessionaire is required to obtain from the City under the Concession Agreement will not be valid or effective unless obtained from the Commissioner.

6.18.2 Unless expressly specified otherwise in the Concession Agreement, all reports, notices, plans, specifications, certificates, requests for approval, and submissions required of the Concessionaire that must be delivered to or approved by the City must be submitted by the Concessionaire to the Commissioner.

6.19 Interpretation

Concessionaire agrees that the rule of interpreting any ambiguities in an agreement against the drafter of the agreement does not apply to the interpretation of the Concession Agreement.

6.20 Time of the Essence

Time is of the essence in Concessionaire's compliance with the Concession Agreement.

6.21 Force Majeure Event

6.21.1 Concessionaire is excused from compliance with any obligation or limitation under the Concession Agreement where (1) compliance with the obligation or limitation is rendered impossible by any unexpected event in the nature of a hurricane, tornado, earthquake, war, terrorism, riot, embargo, or labor strike (except a strike by Concessionaire's own employees), and (2) Concessionaire cannot reasonably make alternative arrangements to comply with the obligation or limitation despite the unexpected event ((1) and (2) together, a "**Force Majeure Event**").

6.21.2 Concessionaire is excused from compliance with any obligation or limitation under the Concession Agreement because of a Force Majeure Event only for the duration of the Force Majeure Event or until Concessionaire can sooner reasonably make alternative arrangements to enable its compliance. If the Force Majeure Event renders impossible Concessionaire's compliance with a material obligation or limitation under the Concession Agreement, and if the Force Majeure Event continues for two months or longer, then the City may terminate the Concession Agreement in the City's sole discretion.

6.21.3 The City is excused from complying with any requirements or limitations applicable to it under the Concession Agreement if the City cannot comply because of any acts of God, acts of public enemy, riot, freight embargo, strike, other work stoppage, government action, breakdown or failure of apparatus, equipment or machinery employed in supplying required services or any act or condition beyond the reasonable control of the City.

6.22 Philadelphia 21st Century Minimum Wage and Benefits Standard.

If Concessionaire is an Employer, as defined at Philadelphia Code Section 17-1303, with the exclusion of subcontractors and their employees, Concessionaire shall comply with the minimum compensation standards by providing its employees with an hourly wage, excluding benefits, at least 150 percent of the federal minimum wage, and to extent the Concessionaire provides health benefits to any of its employees, the Concessionaire shall provide each full-time, non-temporary, non-seasonal covered employee health benefits at least as valuable as the least valuable health benefits that are provided to any other full-time employees of the Concessionaire, as more fully set forth at Philadelphia Code Chapter 17-1300. The Concessionaire shall promptly provide to the City all documents and information verifying its compliance with the requirements of Chapter 17-1300. Furthermore, Concessionaire shall notify each affected employee what wages are required to be paid pursuant to Chapter 17-1300.

Prior to commencement of the contract's term or execution by the City, each Concessionaire subject to Chapter 17-1300 will certify to the satisfaction of the

City that its employees are paid the minimum wage standard as provided by Chapter 17-1300.

The Office of Labor Standards may grant a partial or total waiver of Section 17-1300 based on specific stipulated reasons elaborated in Section 17-1304 of the Philadelphia Code.

SECTION 7 – CONDITIONS REGARDING PROPOSALS; RESERVATION OF RIGHTS BY CITY; EFFECTIVENESS OF CONCESSION AGREEMENT

7.1 Conditions Regarding Proposals

By submitting a Proposal in response to this RFP, the Respondent acknowledges and agrees to the following conditions relative to its Proposal:

- 7.1.1 The Respondent is fully responsible for all its costs associated with the development, preparation, and submission of its Proposal and all other materials it submits in response to this RFP. The City assumes no contractual or other obligations toward Respondent as a result of the issuance of this RFP, the preparation or submission of a Proposal by Respondent, the City's evaluation of Proposals, or the City's selection of a Respondent for further negotiations;
- 7.1.2 It is Respondent's responsibility to ensure that its Proposal is complete, accurate, and submitted by the Deadline for Submitting Proposals set forth on the cover page of this RFP;
- 7.1.3 Upon submission, Respondent's Proposal becomes the property of the City and will not be returned to the Respondent;
- 7.1.4 Respondent will promptly permit the City to inspect projects and Licensed Premises referred to in Respondent's statement of its Management Experience Qualifications and References;
- 7.1.5 Respondent will promptly provide additional information or more detailed information upon request by the City, including information inadvertently omitted by a Respondent;
- 7.1.6 Respondent will promptly send representatives for interviews with City officials when requested by the City;
- 7.1.7 Respondent's Proposal shall remain open for acceptance by the City and in full effect for at least 120 calendar days from the Deadline for Submitting Proposals set forth on the cover page of this RFP;

- 7.1.8 Respondent may not issue news releases (including, but not limited to, commercial advertising) pertaining to this RFP without prior, written approval of the City;
- 7.1.9 Respondent may withdraw or modify its Proposal at any time prior to the Deadline for Submitting Proposals by sending the City a written notice of withdrawal or by submitting the modification in writing, signed in the same manner and by the same person(s) who signed Respondent's initial Proposal, to the address specified on the cover page of this RFP for submitting Proposals.

7.2 Reservation of Rights

The City reserves, and may in its sole discretion exercise, the following rights and options with respect to the proposal submission, evaluation and selection process under this RFP at any time prior to execution of the Concession Agreement:

- 7.2.1 To reject any Proposal if, in the City's sole discretion, the Proposal is incomplete, the Proposal is not responsive to the requirements of this RFP, the Respondent does not meet the qualifications set forth in the RFP, or it is otherwise in the City's best interest to do so;
- 7.2.2 To reject all Proposals, or to postpone, cancel and reissue the RFP or not reissue the RFP if, in the City's sole judgment, it is in the City's best interest to do so;
- 7.2.3 To supplement, amend, or otherwise modify any section of this RFP at any time prior to selection of one or more Respondents for negotiation;
- 7.2.4 To waive any Proposal informality, defect, or deviation from the requirements of this RFP that, in the sole judgment of the City, is not material to the Proposal;
- 7.2.5 To request that some or all of the Respondents clarify, modify or supplement their respective Proposals, including information inadvertently omitted;
- 7.2.6 To request interviews or oral presentations from one or more Respondents;
- 7.2.7 To request recent financial statements from a Respondent as a means of verifying its capability to meet all the obligations of the Concessionaire;
- 7.2.8 To conduct investigations with respect to the qualifications of each Respondent and call a Respondent's references;
- 7.2.9 To enter into negotiations and discussions with any one or more Respondents regarding any aspect or provision of their Proposals; and

- 7.2.10 To make modifications to the responsibilities of the Concessionaire as set forth in this RFP that, in the City’s reasonable discretion, are not material without informing other Respondents or permitting other Respondents to modify their respective Proposals, unless the City, in its sole discretion, determines that permitting other respondents to modify their Proposals is in the City’s best interest.

7.3 Concession Agreement Effectiveness

The Concession Agreement will not be binding upon the City, and a Respondent will not become the Concessionaire, until after all of the following have occurred:

- 7.3.1 The Concession Agreement has been signed by the Respondent and approved by the City’s legal counsel;
- 7.3.2 The Concession Agreement has been executed by the City; and
- 7.3.3 The Respondent has submitted certificates of insurance in accordance with Section 6.4 of this RFP and **Appendix 11**.

7.4 Acceptance of the Provisions of this RFP

By submitting a Proposal in response to this RFP, the Respondent expressly acknowledges and agrees to all the provisions contained in this RFP, including but not limited to the rights reserved by the City.

SECTION 8 – EVALUATION OF PROPOSALS

8.1 Selection Committee

Those Proposals that the City determines in its sole discretion are responsive to this RFP will be reviewed by a “**Selection Committee**” comprised of City officials and employees.

8.2 Proposal Evaluation Criteria

8.2.1 The Selection Committee will evaluate Proposals by considering the criteria listed below. No particular order of importance, weighting, or other priority is assigned to these factors or reflected by their order in the list.

8.2.1.1 Demonstrated experience in the industry or managing operations that are similar in size and nature to the Licensed Premises.

8.2.1.2 Proposed Concession Fee and Initial Capital Investment Plan.

- 8.2.1.3 Financial capacity to perform the services required by this RFP and presented in the Respondent's Proposal.
 - 8.2.1.4 The proposed Operating Plan, including intended use of the Licensed Premises and maintenance, quality and affordability of the Concession.
 - 8.2.1.5 M/W/DSBE participating percentages.
 - 8.2.1.6 Any other factors the Selection Committee considers relevant to the evaluation to the Proposal.
- 8.2.2 The Selection Committee may ask one or more Respondents to discuss their respective Proposals with the Selection Committee. Discussion may cover any matter related to this RFP or that the City deems relevant to the proposed Concession.

8.3 Award of Concession Agreement

The City will award the Concession Agreement to the Respondent whose proposal the City, in its sole discretion, determines best meets the goals of the City in issuing this RFP and is in the best interest of the City. For that reason, the City may not necessarily award the Concession Agreement to the Respondent offering the highest Concession Fee.

8.4 Amendments of Concession Agreement

The City reserves the right, in its sole discretion, but subject to the Concessionaire's agreement, to amend the Concession Agreement in light of then-prevailing circumstances as a condition to renewing the Concession Agreement.

SECTION 9 – SIGNING OF PROPOSALS

Each Respondent must sign its Proposal using one of the forms on the following pages as is appropriate for the Respondent's form of business organization. The Proposal must be signed by a person authorized to bind the entity submitting the Proposal.

[The remainder of this page left blank intentionally; signature pages follow.]

If Respondent is an INDIVIDUAL, PARTNERSHIP, or JOINT VENTURE, the Respondent must date and sign the RFP here:

This ____ day of _____, 2011

Name of Respondent

Signature of Individual or Authorized Signer

Printed Name and Title of Signer

Additional Authorized Signer (if applicable)

Printed Name & Title of Additional Authorized Signer (if applicable)

Federal Employer Identification Number

Phone Number

E-mail Address

Street Address

City, State, Zip Code

**If Respondent is a CORPORATION or LIMITED LIABILITY CORPORATION,
the Respondent must sign and date the RFP here:**

This ____ day of _____, 2011

Corporate Name

Signature of Authorized Official

Printed Name and Title of Signer

Additional Authorized Signer (if applicable)

Printed Name & Title of Additional Authorized Signer (if applicable)

Federal Employer Identification Number

Phone Number

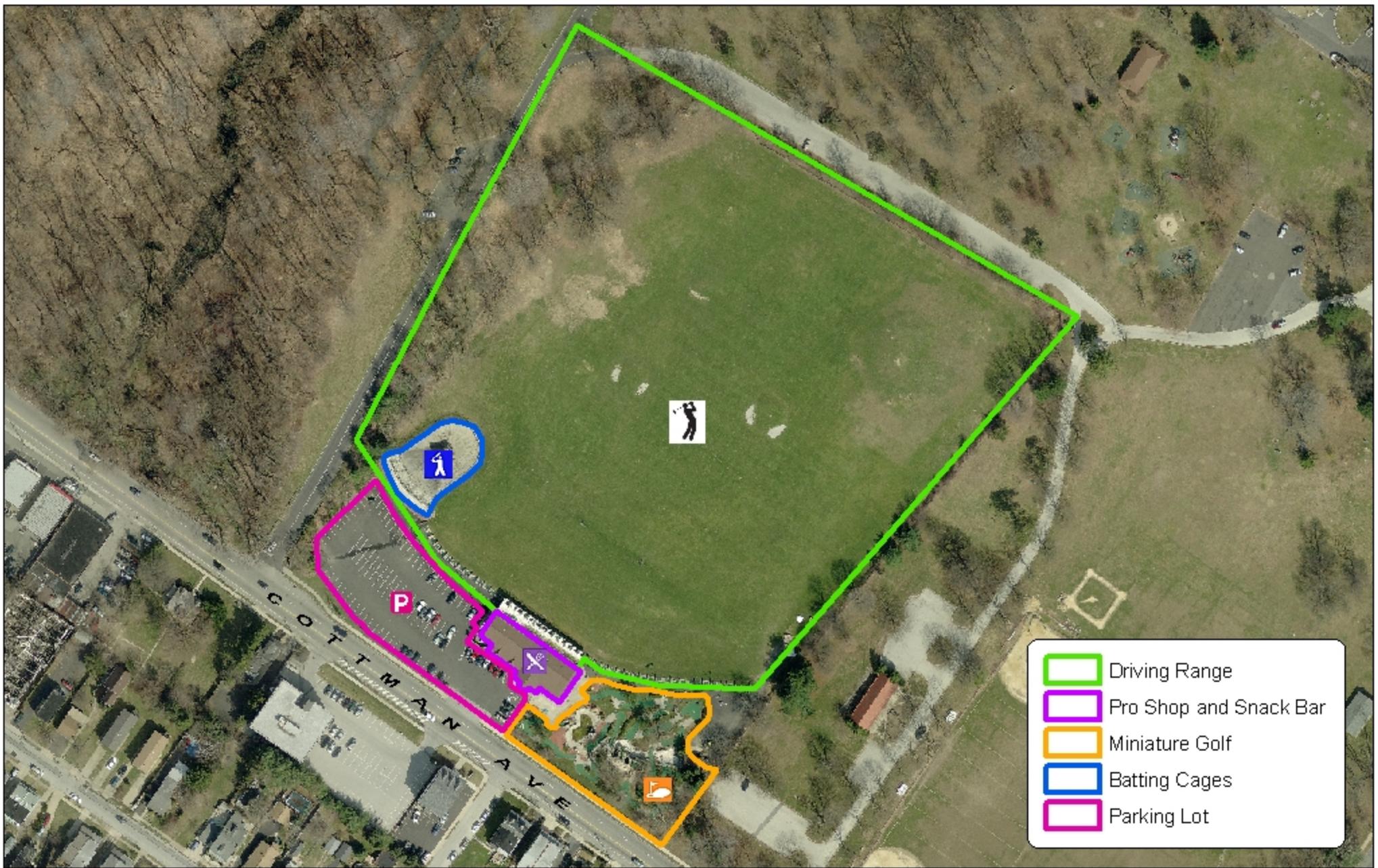
E-mail Address

Street Address

City, State, Zip Code

APPENDIX 1

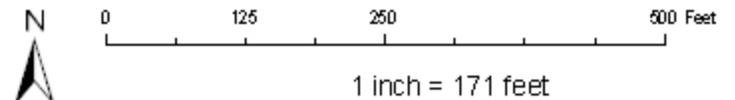
PARCEL MAP OF THE BURHOLME PARK GOLF CENTER



- Driving Range
- Pro Shop and Snack Bar
- Miniature Golf
- Batting Cages
- Parking Lot

PHILADELPHIA
PARKS & RECREATION

Burholme Park Golf Center

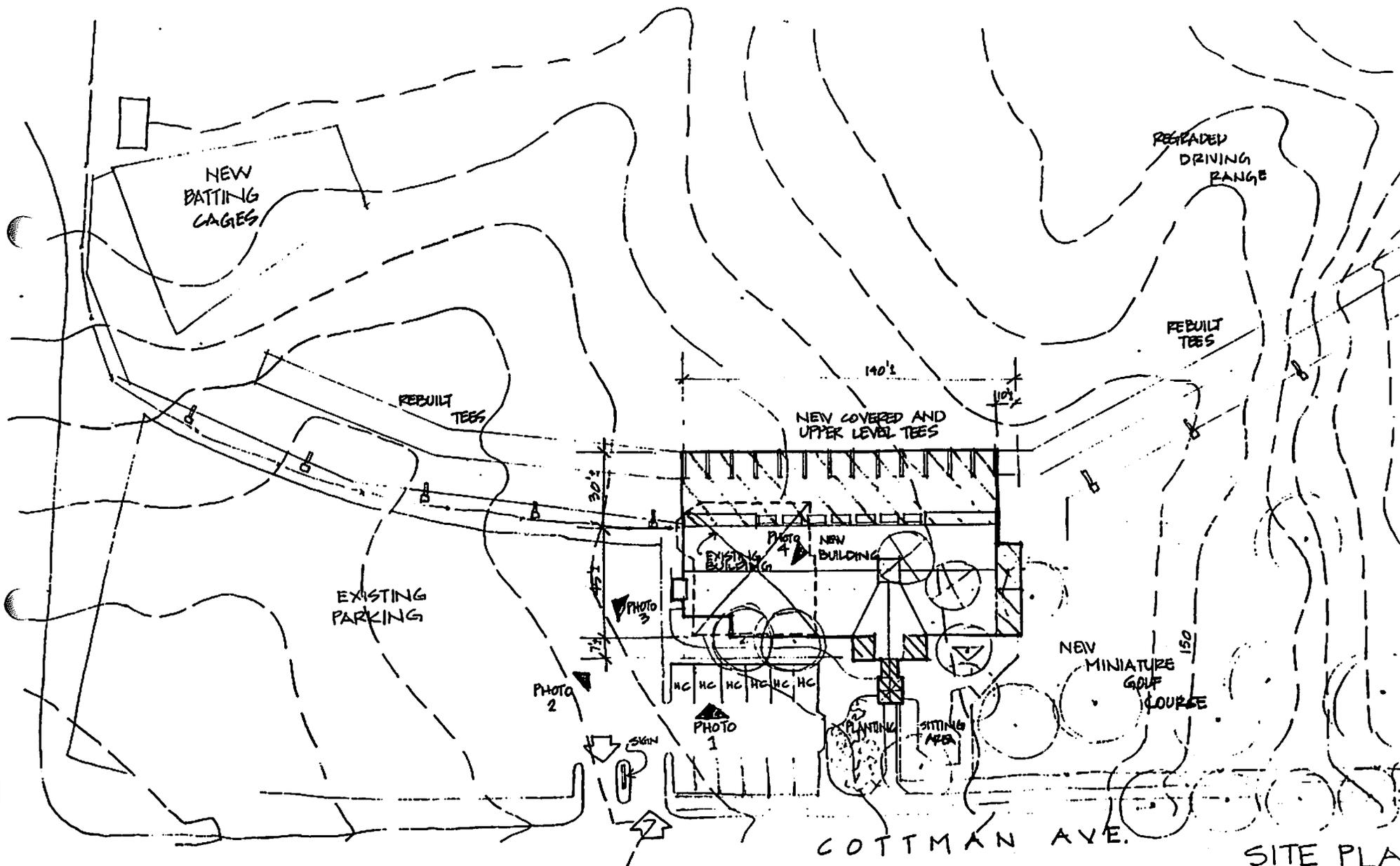


"Burholme Golf Center." 1/2018. City of Philadelphia GIS Data. Philadelphia, PA: Philadelphia Parks & Recreation, 2011. Using: ArcInfo v.9.3.1. Redlands, CA: ESRI, Inc. 1999-2009.

The City of Philadelphia shall not be responsible for any decisions based upon the use of this data. This information was created for internal use, and while we make every attempt to keep it updated, we make no claim as to its accuracy or completeness. This data is not designed to be used as a primary tool in permitting, siting, or in other decisions based solely on this information.

APPENDIX 2

1996 BUILDING PLANS OF THE BURHOLME PARK GOLF CENTER

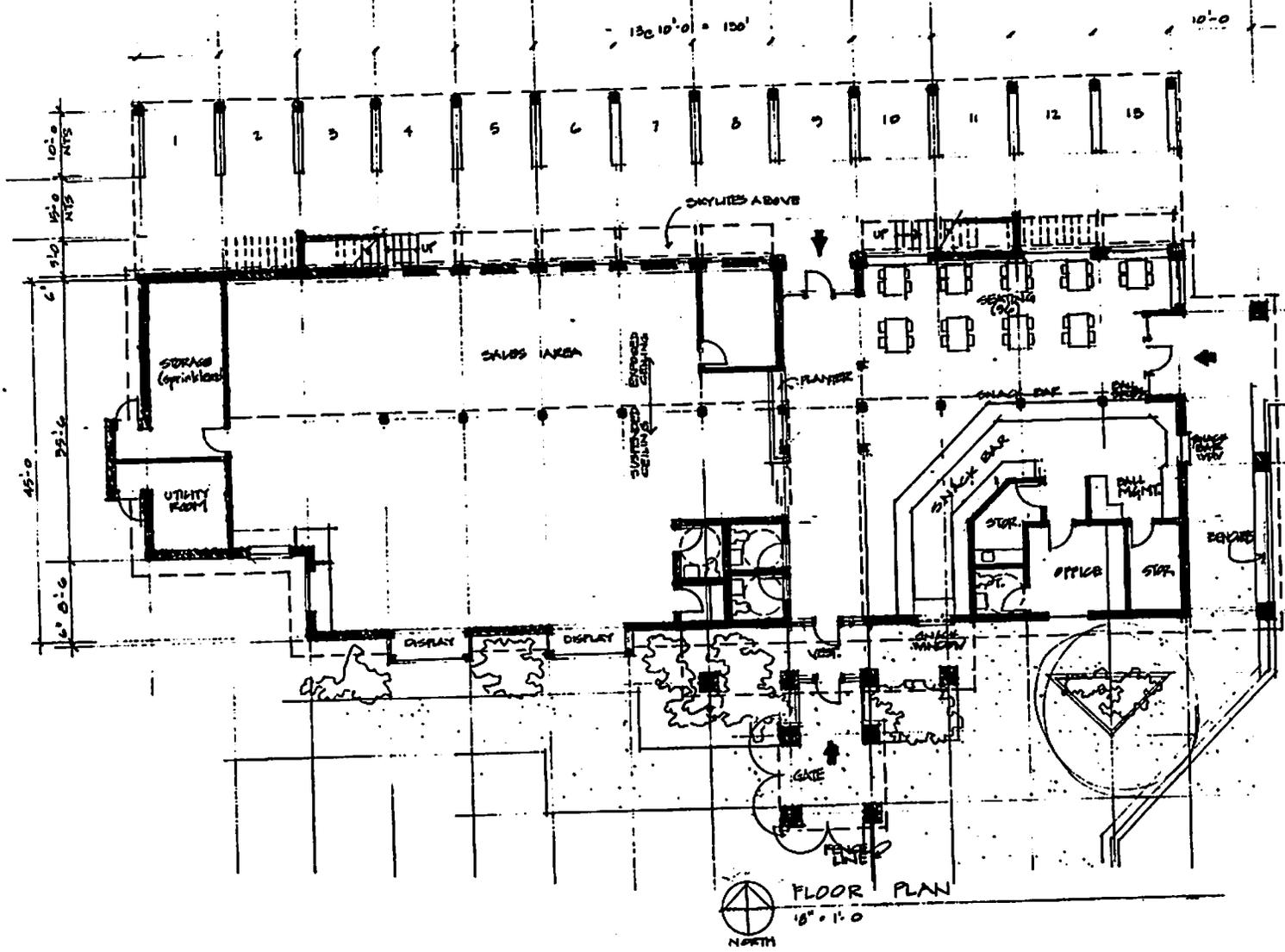


COTTMAN AVE.

SITE PLA

-  BUILDING FOOTPRINT
-  COVERED AND OPEN

1" = 25' 0"
 0 50 100 150
 50

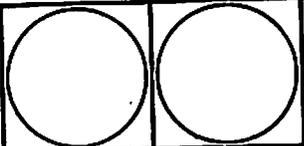


GROSS AREAS	
GOLF SALES	5991 GSF
SALES/OFFICE	3151
STORAGE	284
GOLF CENTER	2707 GSF
TOTAL AREA	12339 GSF

WALL + FENCE (Grade Change)

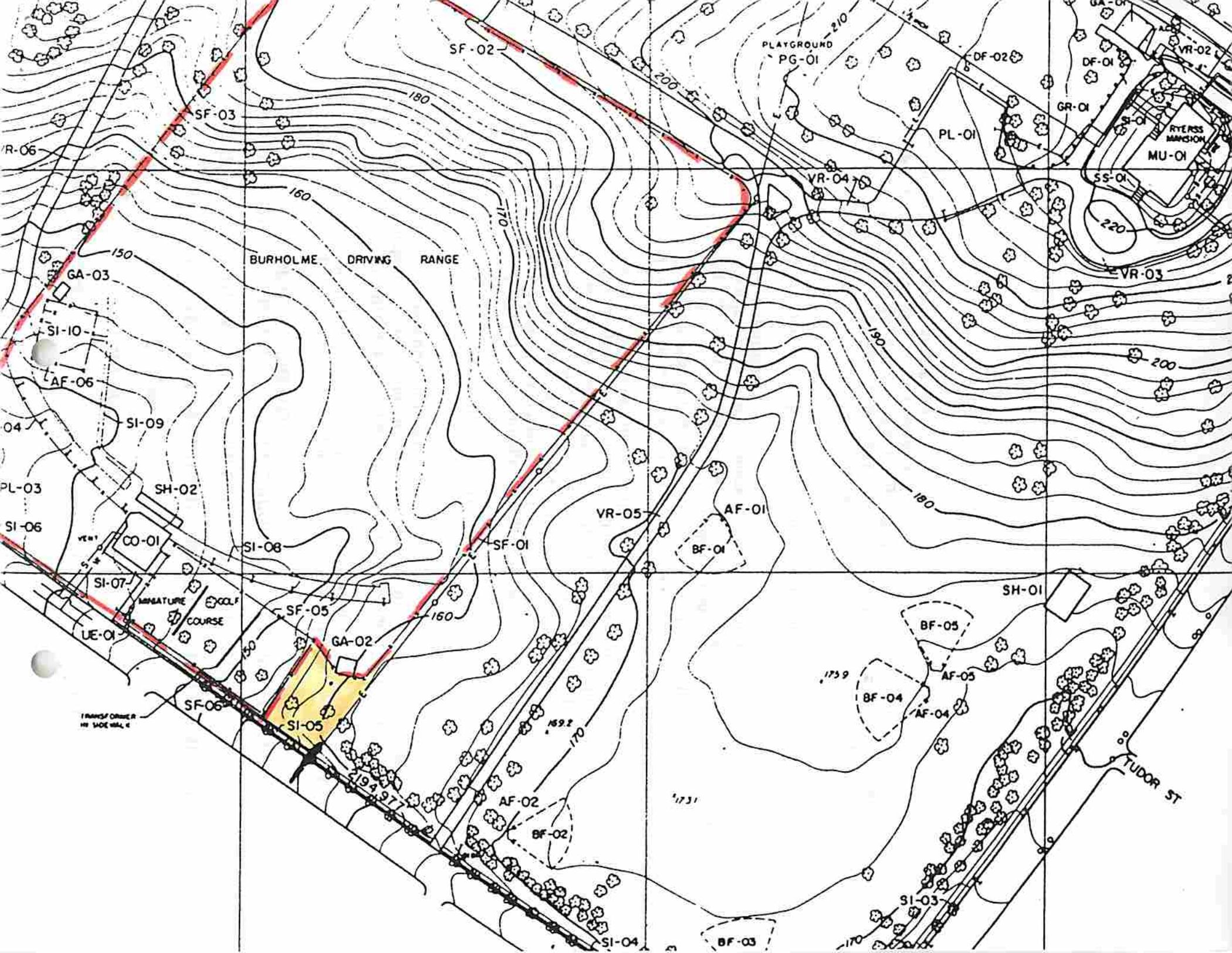
FLOOR PLAN
1/8" = 1'-0"
NORTH

BURHOLME GOLF CENTER
Philadelphia, PA.



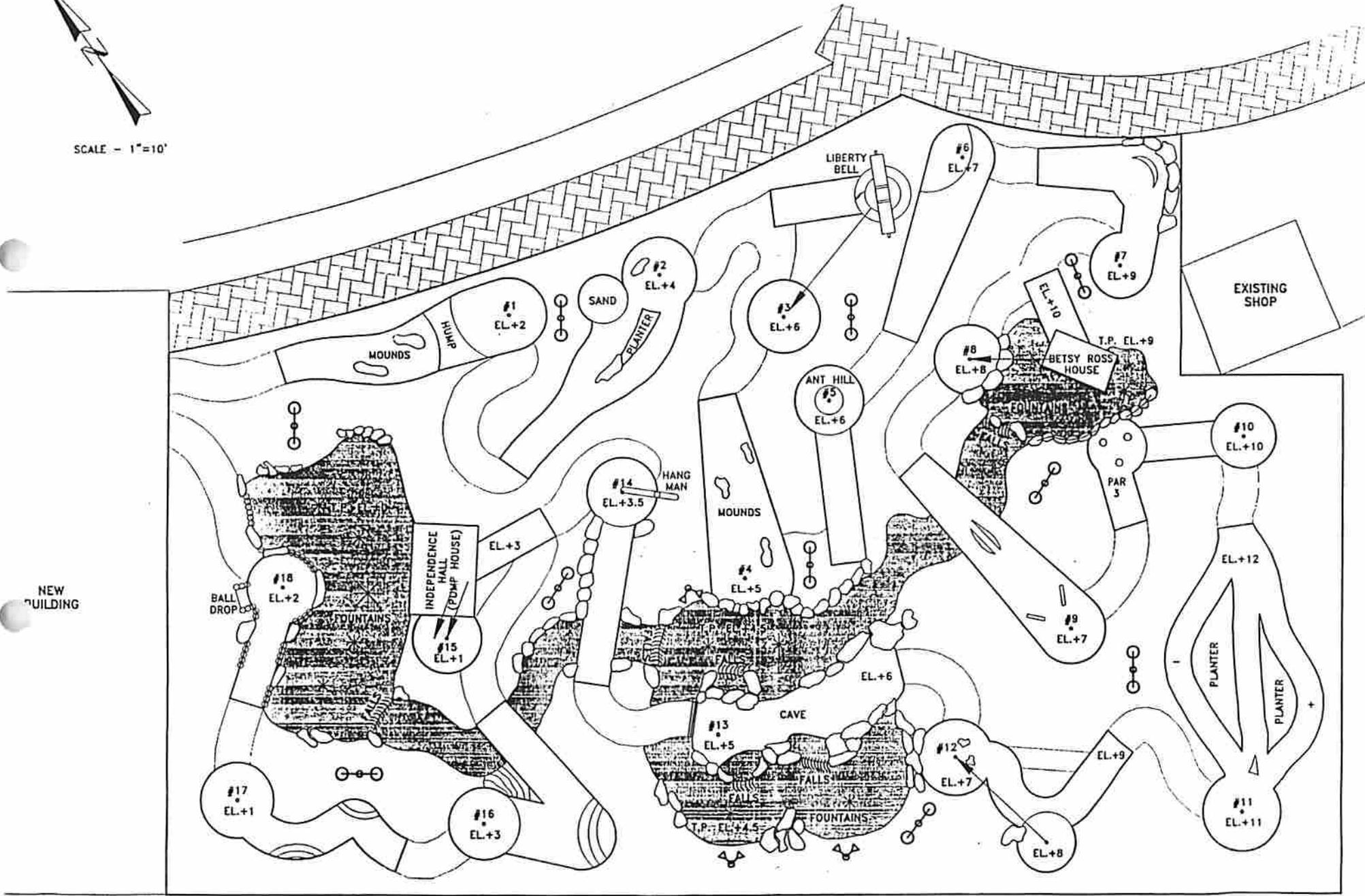
LESTER HOODSWELL ARCHITECT
312 Walnut Road
Philadelphia, PA. 19118
215-261-5712

DATE 6-27-76 SCALE
DRAWN BY: _____
CHECKED BY: _____ REVISION: _____ APPR BY OWNER: _____

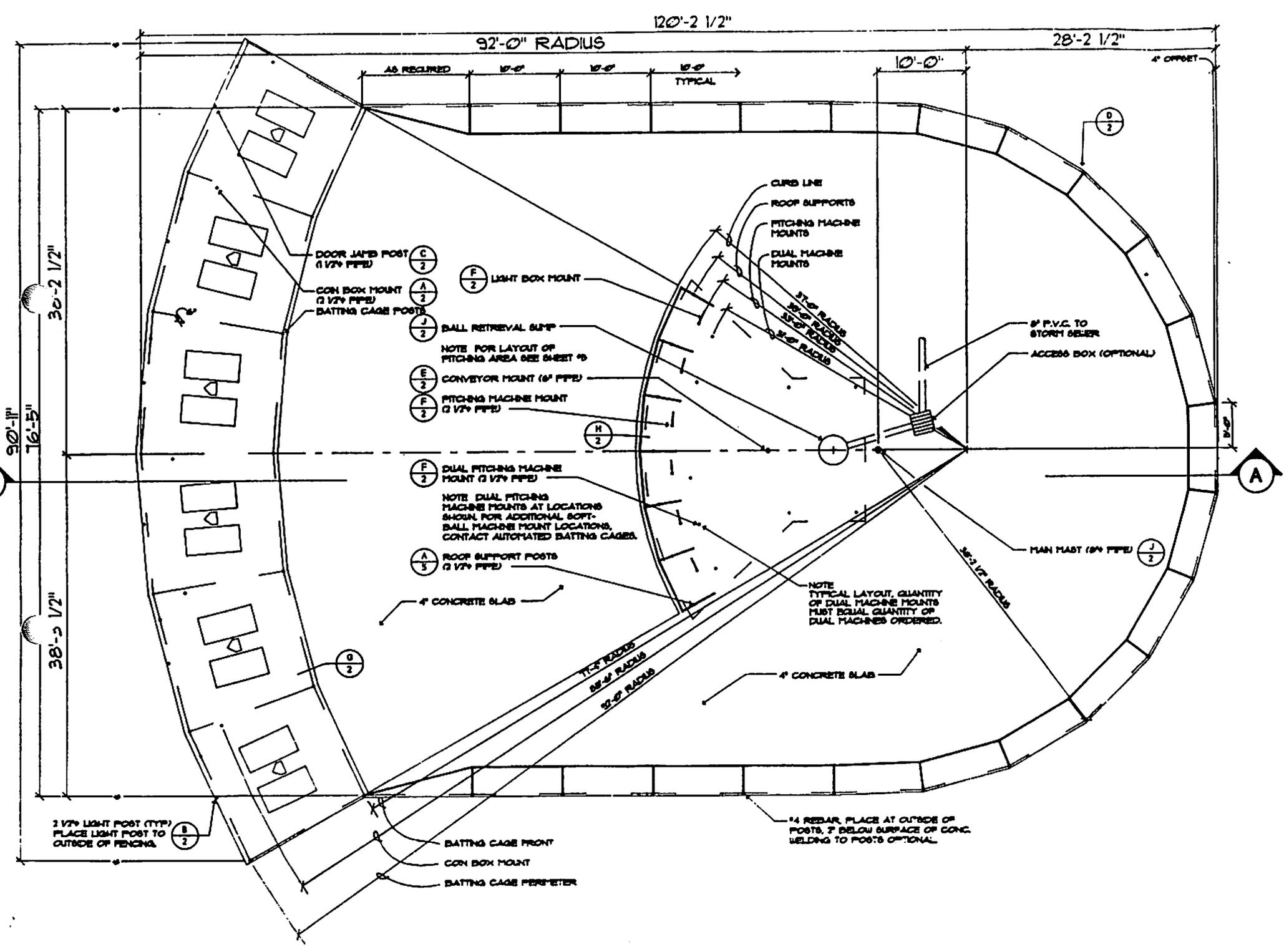




SCALE - 1"=10'



NEW BUILDING



DOOR JAMB POST (1 1/2" PIPE) (C/2)
 CON BOX MOUNT (2 1/2" PIPE) (A/2)
 BATTING CAGE POSTS (J/2)

LIGHT BOX MOUNT (F/2)

BALL RETRIEVAL SUMP (J/2)
 NOTE FOR LAYOUT OF PITCHING AREA SEE SHEET 15

CONVEYOR MOUNT (6" PIPE) (E/2)

PITCHING MACHINE MOUNT (2 1/2" PIPE) (F/2)

DUAL PITCHING MACHINE MOUNT (2 1/2" PIPE) (F/2)

NOTE DUAL PITCHING MACHINE MOUNTS AT LOCATIONS SHOWN FOR ADDITIONAL SOFT-BALL MACHINE MOUNT LOCATIONS, CONTACT AUTOMATED BATTING CAGES.

ROOF SUPPORT POSTS (2 1/2" PIPE) (A/5)

CURB LINE
 ROOF SUPPORTS
 PITCHING MACHINE MOUNTS
 DUAL MACHINE MOUNTS

6" P.V.C. TO STORAGE BELIEF
 ACCESS BOX (OPTIONAL)

MAIN MAST (6" PIPE) (J/2)

NOTE TYPICAL LAYOUT, QUANTITY OF DUAL MACHINE MOUNTS MUST EQUAL QUANTITY OF DUAL MACHINES ORDERED.

2 1/2" LIGHT POST (TYP) PLACE LIGHT POST TO OUTSIDE OF FENCING (B/2)

BATTING CAGE FRONT
 CON BOX MOUNT
 BATTING CAGE PERIMETER

11'-0" RADIUS
 28'-0" RADIUS
 32'-0" RADIUS

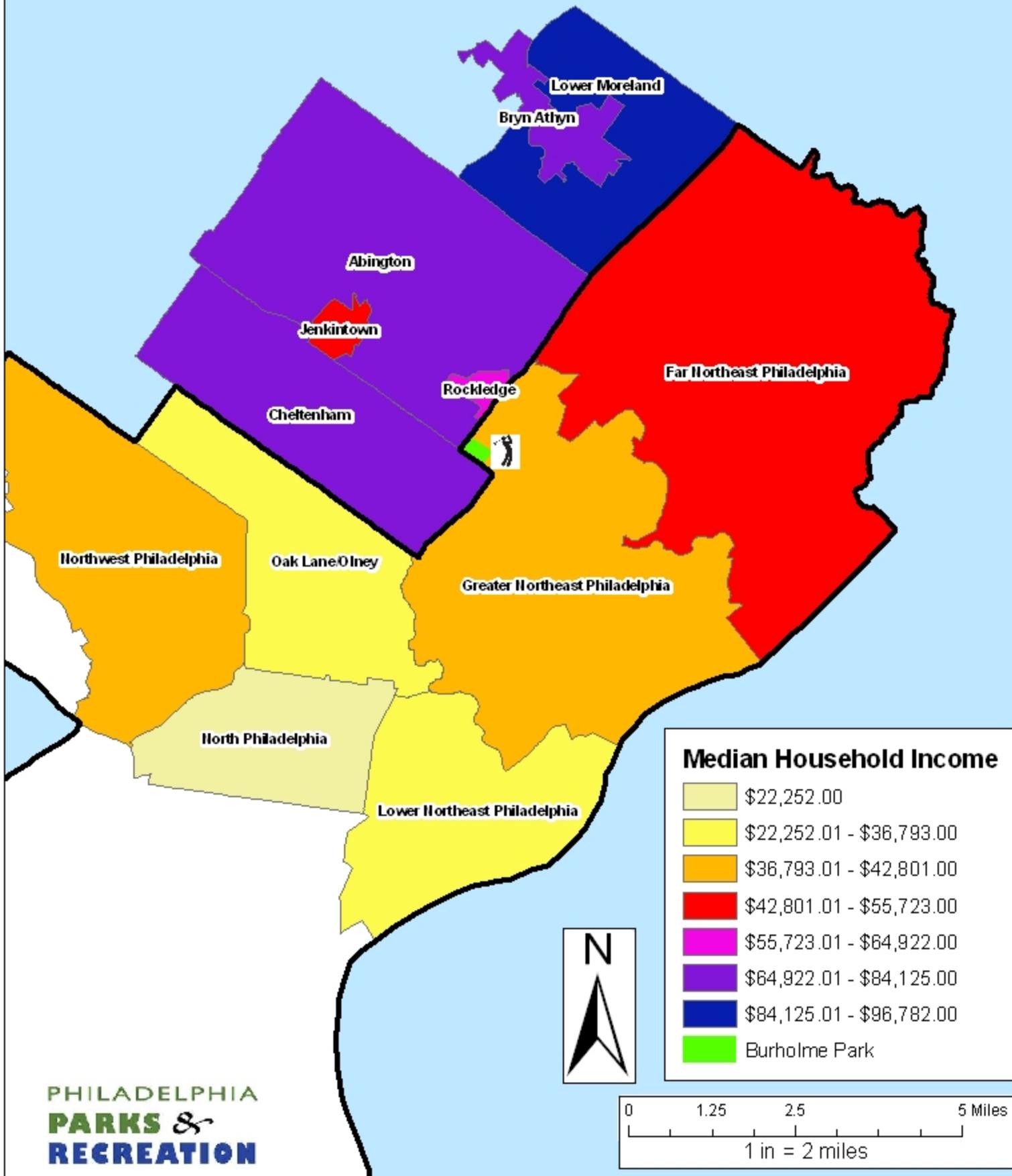
36'-3 1/2" RADIUS

A

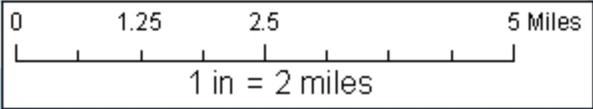
APPENDIX 3

**MEDIAN HOUSEHOLD INCOME OF 5-MILE RADIUS SURROUNDING THE
BURHOLME PARK GOLF CENTER**

Median Household Income of 5 Mile Radius Surrounding Burholme Park, 2009



Median Household Income	
	\$22,252.00
	\$22,252.01 - \$36,793.00
	\$36,793.01 - \$42,801.00
	\$42,801.01 - \$55,723.00
	\$55,723.01 - \$64,922.00
	\$64,922.01 - \$84,125.00
	\$84,125.01 - \$96,782.00
	Burholme Park

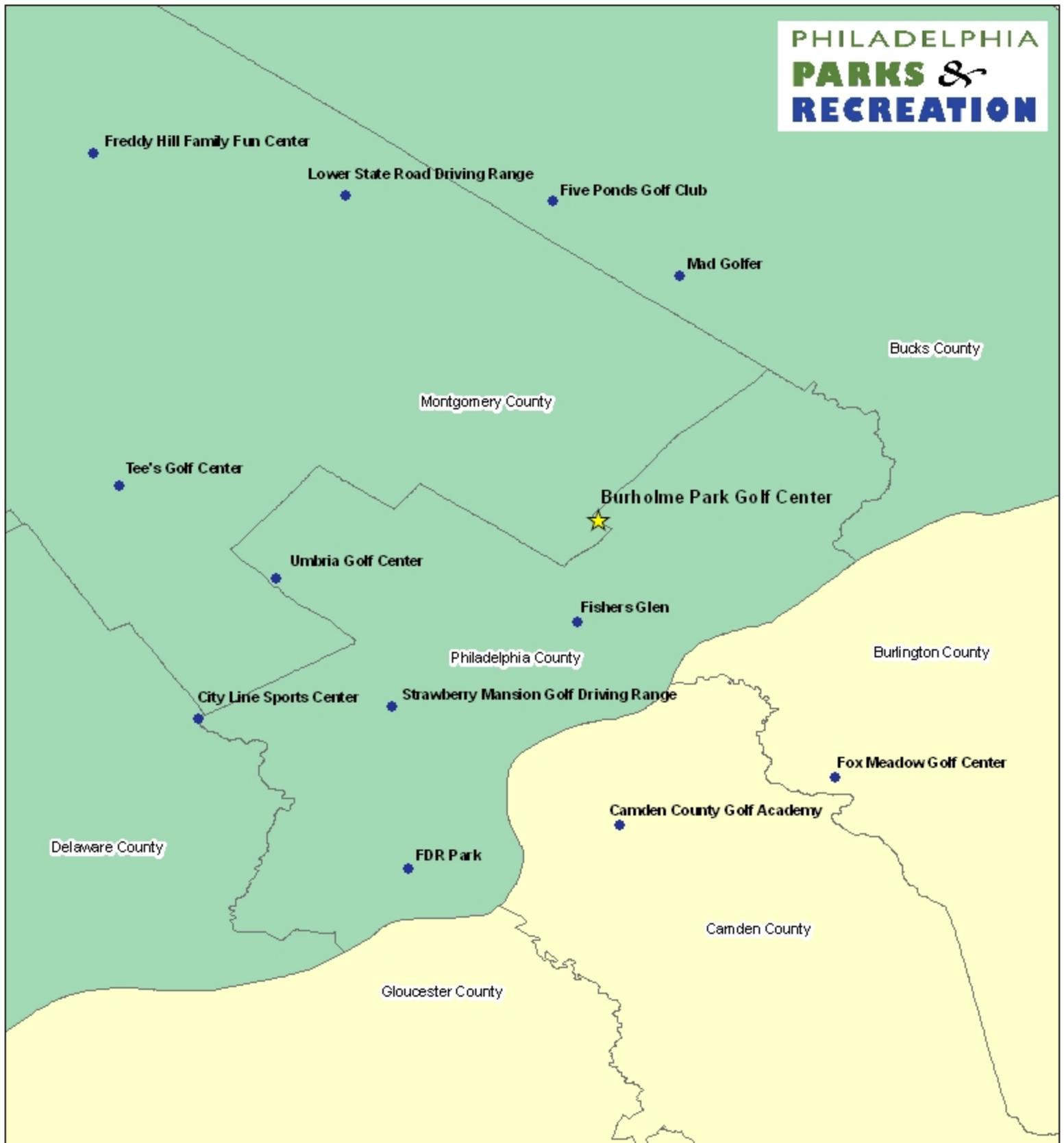


PHILADELPHIA
PARKS & RECREATION

Median Household Income of 5 Mile Radius Surrounding Burholme Park. 1/12/2010. City of Philadelphia GIS Data, Philadelphia, PA; Philadelphia Parks & Recreation, 2011. Using: ArcInfo, 9.3.1, Redlands, CA; ESRI, Inc. 1999 - 2009. The City of Philadelphia shall not be responsible for any decisions based upon the use of this data. This information was created for internal use, and while we make every attempt to keep it updated, we make no claim as to its accuracy or completeness. This data is not designed to be used as a primary tool in permitting, siting, or in other decisions based solely on this information.

APPENDIX 4

PHILADELPHIA AREA DRIVING RANGES



-  Burholme Park Golf Center
-  Area Driving Ranges
-  New Jersey Counties
-  Pennsylvania Counties

Philadelphia Area Driving Ranges



1 in = 4 miles

APPENDIX 5

**City of Philadelphia
Office of Economic Opportunity
Antidiscrimination Policy – Minority, Woman and Disabled Owned Business Enterprises
Forms, Instructions, and Special Contract Provisions**

The Concession Agreement is subject to the **Mayor’s Executive Orders 02-05 and 14-08**. The following instructions, forms and contract provisions, as well as Executive Orders 02-05 and 14-08 (copies of which may be obtained at the Office of Economic Opportunity) are hereby incorporated in and made a part of any contract resulting from the RFP.

Respondent is subject to the provisions of Mayoral Executive Order s 02-05 and 14-08 and is required to respond to the requirements specified in the RFP for participation by Minority Business Enterprises, Woman Business Enterprises and Disabled Business Enterprises as those terms are defined in Executive Order s 02-05 and 14-08.

Under the authority of Executive Orders No. 02-05 and 14-08, the City of Philadelphia has established an antidiscrimination policy (“**Policy**”) relating to the participation of Minority (“**MBE**”), Woman (“**WBE**”) and Disabled (“**DSBE**”) Owned Business Enterprises in City contracts. Executive Order 14-08 disestablished the Minority Business Enterprise Council and transferred its administrative functions under Executive Order 02-05 to the Office of Economic Opportunity (“**OEO**”).

The purpose of the Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City’s antidiscrimination policy is applicable to this Notice of Contracting Opportunity (hereinafter, “**NOCO**”).¹

The Office of Economic Opportunity has approved the following projected ranges of participation for this NOCO which serve as a guide in determining each Respondent’s responsibility:

MBE Ranges	-	<u>5% - 10%</u>
		And/Or
WBE Ranges	-	<u>5% - 10%</u>
DSBE Ranges	-	<u>0%</u>

¹ The term “Notice of Contracting Opportunity,” shortened to the acronym “NOCO,” refers to the City’s contract solicitation documents and information posted on eContract Philly. Generally, these documents take the form of a Request for Proposals (RFP), Request for Qualifications (RFQ) or Request for Expression of Interest (RFI) and include any other document or information (for example, exhibits, appendices) related to the posting of the new contract opportunity.

These ranges represent the percentage of MBE, WBE and/or DSBE (collectively, “M/W/DSBE”) participation that should be attained by M/W/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of certified M/W/DSBEs to perform various elements of the contract. The submission of a S & C Form (the “S & C Form”) and any supporting documentation (more fully discussed below) is an element of responsiveness to the NOCO and failure to submit the required information will result in rejection of the Respondent’s proposal.

Respondent hereby verifies that all forms, information and documentation submitted to the OEO are true and correct and is notified that the submission of false information by Respondent is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

A. M/W/DSBE PARTICIPATION

1. Only firms that are certified by an approved certifying agency² or identified in the OEO Certification Registry at the time of contract award will be credited toward the participation ranges on City contracts. An OEO Certification Registry is maintained by the OEO and is available online at www.phila.gov/OEO/directory. Firms owned and controlled by minority persons, women or disabled persons, which are certified as MBE, WBE, DSBE or DBE by an approved certifying agency may apply to the OEO for listing in its OEO Certification Registry. If Respondent or Respondent’s subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be included with the Respondent’s proposal.

2. No Respondent that seeks to meet the participation range(s) for participation by entering into subcontracts with any M/W/DSBE subcontractor shall be considered to meet the range(s) if the M/W/DSBE subcontractor does not perform a commercially acceptable function (“CAF”). A M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with the NOCO), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved. The OEO may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the M/W/DSBE is performing a CAF. If it is determined during the review of a Respondent’s S & C Form that the work described on the S & C Form does not constitute a CAF, the Respondent’s proposal may be rejected.

3. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE)

² Approved certifying agencies are identified on the OEO webpage found at www.phila.gov/OEO.

will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Respondents will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4. An MBE/WBE/DSBE submitting as the prime Respondent is required, like all other Respondents, to submit a proposal that is responsive to the Policy and will only receive credit toward the relevant participation ranges (e.g., MBE range or WBE range or DSBE range) for the amount of its own work or supply effort on this NOCO. In addition, the participation of an M/W/DSBE partner, as part of a joint venture created for the contract, may be credited towards the participation ranges only to the extent of the M/W/DSBE partner's ownership interest in the joint venture in accordance with the following criteria:

- The MBE, WBE or DSBE partner(s) must be identified in the OEO Registry prior to contract award;
- The M/W/DSBE partner(s) must derive substantial benefit from the arrangement;
- The M/W/DSBE partner(s) must be substantially involved in all phases of the contract including planning, staffing and daily management;
- The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc).

5. M/W/DSBE subcontractors must perform at least twenty percent (20%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees.

6. In listing participation commitments on the S & C Form, Respondents are required to list a detailed description of the work or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. In calculating the percentage amount, Respondents may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information from Respondents in the event of an inconsistency or ambiguity in the S & C Form.

B. RESPONSIVENESS

1. A Respondent's proposal responsive to the Policy is one which contains documentary evidence of the M/W/DSBEs that have been solicited and that will be used by the Respondent on the contract, if awarded; where the Respondent's proposal satisfies the M/W/DSBE participation ranges for that contract, the Respondent is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Respondents must submit documentary evidence of MBE, WBE and DSBEs who have been solicited and with whom commitments have been made in response to the participation ranges included in this NOCO. Failure to submit the S & C Form will result in the rejection of the Respondent's proposal as nonresponsive, although the City, at its

sole discretion, may allow Respondents to submit or amend the S & C Form at any time prior to award. The S & C Form must contain the following information:

- Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made on the enclosed document entitled “Solicitation for Participation and Commitment Form”. Respondents should only make actual solicitations of M/W/DSBEs whose work or materials are within the scope of this NOCO. Mass mailing of a general nature to M/W/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes/subproposals. The Respondent’s listing of a commitment with an M/W/DSBE constitutes a representation that the Respondent has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City.
- If the Respondent has entered into a joint venture with an MBE, WBE and/or DSBE partner, the Respondent is also required to submit along with the S & C Form, a document entitled “Joint Venture Eligibility Information Form,” available at OEO, for the City’s review and approval of the joint venture arrangement.

3. If Respondent does not fully meet each of the range(s) for participation established for this NOCO, Respondent must explain what efforts the Respondent made to achieve the M/W/DSBE participation ranges. Respondent must demonstrate, through the submission of documentary evidence, that it took all necessary steps and made reasonable efforts to achieve the M/W/DSBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/W/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow Respondents to submit or amend their evidentiary submission at any time prior to award. The submission shall contain and discuss, at a minimum, the following:

- Provide reasons for not committing with any MBE/WBE/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by Respondent.
- Provide any additional evidence pertinent to Respondent's conduct relating to this NOCO including sufficient evidence which demonstrates to the OEO that Respondent has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing Respondent's efforts to achieve participation within the ranges, Respondent may submit any corroborating documentation (e.g., copies of advertisements for participation).

The Respondent's documentary evidence will be reviewed by the OEO to ascertain whether discrimination has occurred in the solicitation or selection of contract participants. The review will include consideration of the following:

- Whether the Respondent's actions were motivated by considerations of race or gender or disability. The OEO may investigate the Respondent's contracting activities and business practices on similar public and private sector contracts. For example, if Respondent rejects any M/W/DSBE based on price, Respondent must fully document its reasons for the rejection and also demonstrate that Respondent subjects non-M/W/DSBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.
- Whether M/W/DSBEs were treated as equally as other businesses in the solicitation and commitment process. For example, the OEO will investigate whether M/W/DSBEs are given the same information, access to the plans and requirements of the contract and given adequate amount of time to prepare a quote/subproposal as others who were solicited by Respondent. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether Respondent short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-proposal meetings.
- Whether the Respondent's contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether Respondent selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether Respondent employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract or prompt payment practices.

4. After review of the Respondent's submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department.

- If the proposal is determined nonresponsive by the OEO, the Respondent will be notified and may file a written appeal with the OEO within forty-eight (48) hours of the date of notification. The decision of the OEO may be appealed in writing within forty-eight (48) hours of the date of the OEO's decision to the Chief Operating Officer of the Commerce Department or his/her designee whose decision shall be final.

C. RESPONSIBILITY

1. Upon award, the completed S & C Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract. M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including amendments). Any

change in commitment, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.

2. The successful Respondent shall within twenty (20) business days of work performed by its M/W/DSBE subcontractors under the contract, deliver payment to its M/W/DSBE subcontractors for the work performed (including the supply of materials).

3. No privity of contract exists between the City and any M/W/DSBE subcontractor identified in any contract resulting from this NOCO. The City does not intend to give or confer upon any such M/W/DSBE subcontractor(s) any legal rights or remedies in connection with the subcontracted services under Executive Orders 2-05 and 14-08 or by reason of any contract resulting from the NOCO except such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the OEO determines that the Respondent has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Director of Finance the imposition of sanctions on the Respondent including debarment of the Respondent from submitting and/or participating in future City contracts for a period of up to three (3) years.

D. ACCESS TO INFORMATION

1. The OEO shall have the right to make site visits to the Respondent's place of business and/or job site and obtain documents and information from any Respondent, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain Respondent's responsiveness and responsibility.

2. Failure to cooperate with the OEO in its review may result in a recommendation to terminate the contract.

E. RECORDS AND REPORTS

1. The successful Respondent shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment. These records shall be made available for inspection by the OEO and/or other appropriate City officials. The successful Respondent agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful Respondent's fulfillment of its M/W/DSBE commitments.

F. REMEDIES

1. The successful Respondent's compliance with the requirements of Executive Orders 2-05 and 14-08, including the fulfillment of any M/W/DSBE commitments, is material to the contract. Any failure to comply with these requirements constitutes a substantial breach of the contract. It is further understood and agreed that in the event the City determines that the successful Respondent hereunder has failed to comply with these requirements the City may, in addition to any other rights and remedies the City may have under the contract, any bond filed in connection therewith or at law or in equity, exercise one or more of the following remedies, as deemed applicable, which shall be deemed cumulative and concurrent:

- a. Withhold payment(s) or any part thereof until corrective action is taken.
- b. Terminate the contract, in whole or in part.
- c. Suspend the successful Respondent from proposing/bidding and/or participating in any future City contracts for a period of up to three (3) years.
- d. Recover as liquidated damages, one percent of the total dollar amount of the contract for each one percent (or fraction thereof) of the commitment shortfall. (NOTE: The "total dollar amount of the contract" shall mean the Concession Fee paid to the City.)

The remedies enumerated above are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with any contract resulting from this NOCO nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors.

Should you have any questions related to the Contract Provisions, please contact Rashid Henry, OEO at (215) 683-2079 or fax (215) 683-2085.

Please See Form A: Solicitation for Participation and Commitment Form

APPENDIX 6

**SAMPLE REPORTING FORM PARTICIPATION OF MINORITY, WOMAN
AND DISABLED OWNED BUSINESS ENTERPRISES**

**QUARTERLY M/W/DSBE REPORT
POST AWARD COMPLIANCE REVIEW**

QUARTERLY PERIOD: _____ to _____

CONTRACT NO.: _____

NAME OF
CONCESSIONAIRE: _____

ADDRESS: _____

PHONE NO.: _____

CONTACT NAME: _____

NAME OF SUBCONTRACTOR	SERVICE PROVIDED	OEO CERT #	ORIGINAL CONTRACT AMOUNT	PAYMENTS THIS QUARTER	TOTAL PAYMENTS TO DATE

SIGNATURE: _____

DATE: _____

APPENDIX 7

A. On or before the Commencement Date, the Concessionaire shall promptly procure and throughout the Term must maintain, at its sole cost and expense, the types and minimum limits of insurance coverage specified below. Concessionaire shall procure all the required insurance from reputable insurers who are acceptable to the City and authorized to do business in the Commonwealth of Pennsylvania. Concessionaire shall cause the insurance policies to provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, cancelled, non-renewed or scheduled to lapse. All insurance required in this RFP and the Concession Agreement must be written on an "occurrence" basis and not a "claims-made" basis, unless otherwise noted below.

1. Workers' Compensation and Employers' Liability
 - a. Workers Compensation – Statutory Limits
 - b. Employers Liability:
\$500,000 Each Accident - Bodily Injury by Accident;
\$500,000 Each Employee - Bodily Injury by Disease;
\$500,000 Policy limit - Bodily Injury by Disease;
 - c. Other states endorsement including Pennsylvania.
2. General Liability Insurance
 - a. Limits of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 personal and advertising injury; and \$1,000,000 aggregate for products and completed operations.
 - b. Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross liability and broad form property damage (including completed operations); and explosion, collapse and underground hazards.
3. Automobile Liability
 - a. Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage.
 - b. Coverage: owned, non-owned and hired vehicles.
4. Umbrella Liability Insurance at limits totaling \$5,000,000 per occurrence when combined with insurance required under (1), (2) and (3) above.

5. Liquor Liability
Limit of Liability: \$2,000,000 per occurrence combined single limit for liability arising out of the manufacture, distribution, sale or service of alcoholic beverages, if applicable.
6. Professional Liability Insurance (for all architects and engineers)
For any architectural and/or engineering services at a limit of \$1,000,000 with a deductible not to exceed \$50,000 covering error and omissions. This coverage may be written on a “claims-made” basis provided that coverage for occurrences happening during the performance of services required under the contract shall be maintained in full force and effect under the policy or “tail” coverage for a period of at least two (2) years after the completion of the services.
7. “All Risk” Property Insurance
Covering all improvements, betterments, equipment, trade fixtures, merchandise, business personal property and any other property in Concessionaire’s care, custody and control in an amount equal to the full replacement cost with no penalty for coinsurance, and with an endorsement naming the City as “loss payee”.
8. Boiler and Machinery Insurance
Against loss or damage from explosion, erupting, collapsing, exploding or mechanical breakdown of boilers or pressure vessels and all equipment parts thereof and appurtenances attached hereto the extent applicable to the premises.
9. Builder’s Risk
During any period of construction, including but not limited to any capital improvements, Concessionaire (or Concessionaire’s general contractor or other Subcontractors) shall maintain “all risk” builder’s risk insurance in an amount equal to the anticipated completion value of the project under construction. The coverage shall remain in full force and effect during any period of construction or improvements.

B. Concessionaire shall cause the City, its officials, officers, employees and agents, to be named additional insureds on all policies required under this RFP and the Concession Agreement except the Workers Compensation and Employer’s Liability and Professional Liability Insurance. Concessionaire shall cause such policies to include an endorsement stating that the coverage afforded the additional insureds is primary to any other coverage available to them.

C. Concessionaire shall cause original certificates of insurance to be delivered to the City’s Risk Manager at City of Philadelphia, Division of Risk Management, One Benjamin Franklin Parkway – 14th Floor, 1515 Arch Street, Philadelphia, PA 19102, within ten (10) days after the execution date of the Concession

Agreement and at least ten (10) days before each Renewal Term, if any. Concessionaire shall cause the actual endorsement adding the City as an additional insured to be also submitted to the City's Risk Manager at the above address.

D. The insurance requirements set forth in this Agreement do not modify, limit or reduce Concessionaire's indemnifications of the City under this RFP and the Concession Agreement and do not limit Concessionaire's liability under the Concession Agreement to the limits of the policies of insurance required to be maintained by Concessionaire.

E. Concessionaire shall not take out insurance of the kind and in the amounts provided for in this RFP and the Concession Agreement under any blanket insurance policy that covers other properties owned or operated by Concessionaire or its Related Companies.

F. Concessionaire shall cause all proceeds of property damage and Builder's Risk policies to be payable to the City to use the restoration or repair of the Facilities.

G. Concessionaire shall cause each policy of insurance required under this RFP and the Concession Agreement, except the Workers Compensation policy, to include a provision for a waiver of subrogation in favor of City.

H. Fidelity Bond. Concessionaire shall, at its sole cost and expense, obtain and maintain during the Initial Term and any Renewal Term(s) of the Concession Agreement, a fidelity bond in an amount equal to \$500,000, covering Concessionaire's employees who have financial responsibilities related to the receipt and disbursement of funds under the Concession Agreement. In lieu of a fidelity bond, Concessionaire may obtain coverage for Crime insurance with limits of \$500,000. The fidelity bond or crime insurance, whichever is obtained by Concessionaire, shall name the City as a beneficiary. The Concessionaire shall submit evidence of the existence of the fidelity bond or crime insurance to the City prior to the Commencement Date.

I. From time to time, but not more than once each year, the City may, in its reasonable discretion, require the Concessionaire to obtain additional types and amounts of insurance, or either of them, than what Concessionaire is obligated to obtain and maintain under this RFP and the Concession Agreement.

FORM A

SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM

ANTIDISCRIMINATION POLICY SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM
Minority (MBE), Woman (WBE), Disabled (DSBE) and Disadvantaged (DBE) Business Enterprises¹

DEPARTMENT OF COMMERCE OFFICE OF ECONOMIC OPPORTUNITY (OEO)							
Bid Number or Proposal Title:		Name of Bidder/Proposer:			Bid/RFP Opening Date:		
<i>Burholme Park Golf Center RFP</i>							
List below ALL MBE/WBE/DBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.							
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		Work or Supply Effort to be Performed	Date Solicited		Commitment Made		Give Reason(s) If No Commitment
Company Name			By Phone	By Mail	Yes (If Yes, give date)	NO	
Address							
Contact Person			Quote Received		Amount Committed To		
Telephone Number Fax Number			YES²	NO	Dollar Amount		
Email Address					\$		
OEO REGISTRY #	CERTIFYING AGENCY				Percent of Total Bid/RFP		
					%		
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		Work or Supply Effort to be Performed	Date Solicited		Commitment Made		Give Reason(s) If No Commitment
Company Name			By Phone	By Mail	Yes (If Yes, give date)	NO	
Address							
Contact Person			Quote Received		Amount Committed To		
Telephone Number Fax Number			YES²	NO	Dollar Amount		
Email Address					\$		
OEO REGISTRY #	CERTIFYING AGENCY				Percent of Total Bid/RFP		
					%		
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE		Work or Supply Effort to be Performed	Date Solicited		Commitment Made		Give Reason(s) If No Commitment
Company Name			By Phone	By Mail	Yes (If Yes, give date)	NO	
Address							
Contact Person			Quote Received		Amount Committed To		
Telephone Number Fax Number			YES²	NO	Dollar Amount		
Email Address					\$		
OEO REGISTRY #	CERTIFYING AGENCY				Percent of Total Bid/RFP		
					%		

1. If Bidder/Proposer makes solicitation(s) and commitment(s) with a DBE, Bidder/Proposer shall indicate which class type, M-DBE or W-DBE, is submitted for credit.
 2. Attach all quotations to this form.

FORM B

CONCESSION FEE PROPOSAL FORM

Concession Fee (MAG and % of Gross Revenues) for operation, management and maintenance of the Licensed Premises:

2012: \$ _____ plus _____% of Gross Revenues.
MAG

2013: \$ _____ plus _____% of Gross Revenues.
MAG

2014: \$ _____ plus _____% of Gross Revenues.
MAG

2015: \$ _____ plus _____% of Gross Revenues.
MAG

2016: \$ _____ plus _____% of Gross Revenues.
MAG

2017: \$ _____ plus _____% of Gross Revenues.
MAG

2018: \$ _____ plus _____% of Gross Revenues.
MAG

2019: \$ _____ plus _____% of Gross Revenues.
MAG

2020: \$ _____ plus _____% of Gross Revenues.
MAG

2021: \$ _____ plus _____% of Gross Revenues.
MAG

First Renewal Term (if applicable)

2022: \$ _____ plus _____ % of Gross Revenues.
MAG

2023: \$ _____ plus _____ % of Gross Revenues.
MAG

2024: \$ _____ plus _____ % of Gross Revenues.
MAG

2025: \$ _____ plus _____ % of Gross Revenues.
MAG

2026: \$ _____ plus _____ % of Gross Revenues.
MAG

Second Renewal Term (if applicable)

2027: \$ _____ plus _____ % of Gross Revenues.
MAG

2028: \$ _____ plus _____ % of Gross Revenues.
MAG

2029: \$ _____ plus _____ % of Gross Revenues.
MAG

2030: \$ _____ plus _____ % of Gross Revenues.
MAG

2031: \$ _____ plus _____ % of Gross Revenues.
MAG