

## REQUEST FOR PROPOSALS

To Lease, Improve, Maintain and Operate  
The John F. Byrne Golf Course  
9550 Leon Street, Philadelphia, Pa. 19114

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**Issued By: The City of Philadelphia**  
through its  
Department of Parks and Recreation  
Kathryn Ott Lovell, Commissioner (the “**Commissioner**”)

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**Interested Organizations Must Attend a Mandatory Pre-Proposal Meeting:**  
Wednesday, September 11, 2019 at 1:00 p.m.  
at John F. Byrne Clubhouse- 9550 Leon Street

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### **The Deadline for Submitting Proposals:**

Friday, October 4, 2019 at 5:00 p.m.

to

Robert Allen, Director, Property & Concessions Management (the “**Project Manager**”)  
Department of Parks and Recreation  
One Parkway, 10<sup>th</sup> Floor  
1515 Arch Street  
Philadelphia, Pa. 19102-1587

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Questions regarding this Request for Proposals must be submitted in writing no later than  
**Wednesday, September 18, 2019 at 5:00 p.m., Local Time (“Deadline for Questions”)**  
and directed to the Project Manager  
at  
[robert.allen@phila.gov](mailto:robert.allen@phila.gov)

## Section 1- Purpose of Request- General Information

- 1.1 This Request for Proposal (the **“RFP”**) is being issued by the City of Philadelphia (the **“City”**), through its Department of Parks and Recreation (the **“Department”**). The property subject to this RFP is the clubhouse and surrounding golf course located at 9550 Leon Street in Philadelphia (the **“Premises”**). Please see **Appendix A** for a map of the Premises.

The Department seeks proposals from qualified nonprofit organizations that, in consideration for receiving a long term lease, will make a significant capital investment to improve and operate the Premises for the benefit of the community. The lease agreement with the Department will require the nonprofit organization to invest all cash flow from golf operations to maintain the Premises and provide programs for the community.

- 1.2 Each firm and individual that submits a proposal in response to this RFP (a **“Proposal”**) will be considered a **“Respondent”**. The Department intends to enter into a lease (the **“Lease Agreement”**) with the Respondent whose Proposal the Department determines meets the requirements set forth in this RFP and provides the best terms to achieve the Department’s objectives. The Respondent who executes the Lease Agreement with the City will become the **“Tenant”** under the Lease Agreement.
- 1.3 The Department estimates that approximately \$500,000 to \$600,000 of repairs and capital improvements are required to bring the Premises up to an acceptable level of maintenance. The Tenant must, at its sole cost and expense, perform not less than \$500,000 of capital improvements to restore the clubhouse, upgrade the golf course and maintain the Premises, including but not limited to bringing the Premises into compliance with the Americans with Disabilities Act, 42 U.S.C. Sect. 12101 et seq., as it may be amended from time to time. The Lease Agreement will require the Tenant to make the minimum of \$500,000 of repairs and capital improvements during the first three years of the term of the Lease Agreement.
- 1.4 The Department will require a nominal annual rent payment from the Tenant of \$1.

- 1.5 The Department will give the Tenant an initial lease term of one ( 1) year with up-to three (3) annual renewals ( the **“Term”**), converting to an initial term of ten (10) years with up-to two (2) five-year renewals upon approval and passage of an applicable City Council Ordinance.
- 1.6 The Department will hold a mandatory pre-proposal meeting for all interested potential Respondents on the date and time stated on the cover page of this RFP. Each potential Respondent is encouraged to RSVP to the Project Manager listed on the cover page of this RFP regarding their attendance at the mandatory pre-proposal meeting.
- 1.7 The purpose of the mandatory pre-proposal meeting is for Department officials to further discuss the Department’s goals under this RFP and to answer potential Respondents’ questions about the RFP, the Premises and the Lease Agreement. The Department will provide written answers to questions it receives at the pre-proposal meeting as an addendum to this RFP. Although Department officials may provide verbal answers to questions at the pre-proposal meeting, only the Department’s written answers are the Department’s official answers to those questions. The City will post its written answers to questions received at the pre-proposal meeting and questions received in writing by the deadline at <https://www.phila.gov/departments/philadelphia-parks-recreation/> in the form of an Addendum to this RFP.
- 1.8 The Department believes that the information it has provided in this RFP is reliable, but the Department does not represent or warrant the completeness or accuracy of the information in this RFP. Each potential Respondent is encouraged to conduct all examinations, investigations and studies of the Premises as necessary and appropriate to prepare and submit a proposal in response to this RFP and to fulfill the obligations of the Tenant under the Lease Agreement. In submitting a Proposal, each Respondent relies solely upon its own examination, investigation and study of the Premises.

- 1.9 Each potential Respondent is encouraged to carefully read this entire RFP. The provisions set forth in Section 3 of this RFP will become part of the Lease Agreement. The Department will not negotiate the provisions of Section 3 of this RFP, although the Department may expand upon them in the Lease Agreement.

## **Section 2 – Background**

- 2.1 The Premises consists of an 18-hole golf course ( 5,234 yards from the back tees), clubhouse facility and parking area.
- 2.2 The Premises was designed by the noted golf course designer and architect Alexander Findlay and opened in 1931.
- 2.3 The Premises was purchased by the City in the early 1960's and was later renamed for Philadelphia City Councilman and Pa. State Senator John F. Byrne, Sr., who died in August 1965.
- 2.4 As stated previously a map of the Premises is set forth in **Appendix A** to this RFP.
- 2.5 A brief history of the Premises is set forth in **Appendix B** to this RFP.
- 2.6 The Premises is owned by the City and under the Department's jurisdiction.
- 2.7 The First Tee of Greater Philadelphia, Inc. provides programs at the Premises that promote character development and life enhancing skills through the game of golf. The Tenant must commit to working with First Tee and to the continuance of First Tee's programs at John F. Byrne Golf Course.
- 2.8 Operating results at John F. Byrne Golf Course have declined since 2015. The number of rounds and revenue for the calendar years ended December 31, 2015 through 2018 and for the six months ended June30, 2019 are set forth in **Appendix C**. The Department believes that renovations to the clubhouse and course and the announcement of new management will help turn this trend around.

2.9 The Department believes that the clubhouse building is structurally sound, but the building needs extensive capital repairs and replacements. Please see **Appendix D** for a partial list of recommended repairs and capital improvements. For example, and without limitation, the clubhouse needs new windows facing the golf course, porch roof repairs/new gutters throughout, interior and exterior painting, new interior carpet, new ceiling tiles, new 2<sup>nd</sup> floor windows and possible renovation/repair of the 2nd floor roof and interior office/living space.

2.10 The Department owns landscape maintenance equipment and interior equipment to operate the clubhouse that will be available to the Tenant for the maintenance of the golf course. A list of the equipment is set forth in **Appendix E** to this RFP. The Tenant must at its sole cost and expense acquire whatever additional equipment is deemed necessary to maintain the golf course. The Tenant must also at its sole cost and expense maintain all equipment including the equipment owned by the Department.

### **Section 3- Basic Lease Agreement Terms; Required Improvements, and Other Requirements**

3.1 The City makes no representation or warranty about the condition of the Premises' or the existing equipment.

3.2 Tenant accepts the Premises and existing equipment in its "AS IS" condition and subject to all the following:

1. All Applicable Laws, including the zoning applicable to the Premises.
2. All surface and subsurface conditions of the Premises.
3. The present uses and non-uses of the Premises.
4. All latent and patent defects and hazards.
5. Easements, encumbrances, agreements, and restrictions of record.

6. Unrecorded matters affecting the Premises or use of the Premises that would be disclosed by a complete property survey by a licensed surveyor.
7. City's title to the Premises and any defects in the City's title.
8. The nature or usability of the Premises, or the use or uses to which the Premises or any part of the Premises may be put, including the suitability of the Premises for Tenant's intended use under the Lease Agreement.
9. The Premises' compliance or noncompliance with Applicable Laws, and all violations of Applicable Laws that might be disclosed by an examination and inspection or search of the Premises conducted by any federal, state, county or municipal department or authority having jurisdiction.

3.3 The Tenant shall obtain all permits and licenses that Applicable Laws require for the restoration, use, occupancy, and operation of the Premises. Without limiting the general application of the preceding sentence, before starting any physical renovation work on the Premises, the Tenant must obtain the prior, express written approval of the Commissioner (identified on the cover page of this RFP).

3.4 Except as otherwise indicated in this RFP and the subsequent Lease Agreement, the Tenant shall pay all costs and expenses to restore, repair, use, occupy, maintain and operate the Premises and to fulfill Tenant's obligations under the Lease Agreement. In Tenant's initial restoration and repair of the Premises, the Tenant shall spend not less than \$500,000 to restore, repair, upgrade and maintain the Premises during the first three years of the Term

3.5 The Tenant may not subject the Premises to a mortgage or any other lien in connection with its restoration and repair of the Premises, its use, occupancy, maintenance, and operation of the Premises, or for any other reason.

3.6 Tenant must obtain the Commissioner's express, prior written approval of complete plans and specifications for the Tenant's restoration and repair of the Premises (the "**Plans and Specifications**"). The Plans and Specifications must include a timeline by which Tenant will perform the restoration and repair (please see Section 4.1.3. of the RFP).

1. Tenant shall not start any physical restoration or repair work on the Premises until Tenant has obtained the Commissioner's final, written approval of the Plans and Specifications.
2. Tenant shall restore and repair the Premises in strict accordance with the Plans and Specifications the Commissioner has approved.
3. Tenant shall not change the Plans and Specifications as the Commissioner has approved them without the Commissioner's express, prior written approval.
4. Tenant shall perform the restoration and repair work within the timeline set forth in the approved Plans and Specifications.

3.7 Throughout the Term, and any subsequent renewals or extensions, Tenant shall pay all costs and expenses to operate, maintain, and repair the Premises, including the building and all the building's systems. The City is not obligated to maintain or repair the Premises or to pay any cost or expense to maintain or repair the Premises at any time during the Term and any subsequent renewals or extensions.

3.8 The Tenant shall obtain and maintain commercial liability insurance, property insurance, and other insurance coverages at levels the City's Risk Manager requires. Tenant shall cause the City to be named as an additional insured on the Tenant's commercial liability insurance and the insured on the Tenant's property insurance. The Lease Agreement insurance requirements are set forth in **Appendix F** of this RFP.

3.9 The Tenant shall promptly indemnify and defend the City against claims and liabilities arising out of or related to the Tenant's restoration, repair, operation, and maintenance of the Premises, as more fully set forth in the Lease Agreement.

3.10 The Tenant shall execute an Economic Opportunity Plan ("EOP") as set forth in **Appendix G**. The EOP shall include a plan for the participation of disadvantaged firms and persons in the design, restoration, repair, operation, maintenance and concession catering at the Premises, as approved by the City's Office of Economic Opportunity and set forth in the Lease Agreement. Without limiting the general application of the preceding sentence, Tenant shall use its good faith efforts to achieve participation of the following types and ranges in Tenant's initial restoration and repair of the Premises and in the management and operation of the Premises:

PROPOSAL	MBE		WBE
Capital Improvements	18% - 22%	And	12% - 16%
Operations and Maintenance	15% - 20%	And/or	15% - 20%
Concessions and Catering	10% - 15%	And/or	10% - 15%

3.11 The Tenant may subcontract the performance of any services related to the operation of the Premises, including, but not limited to:

- Maintenance
- Pro shop operations
- Golf lessons ,
- Programming; and
- A concession to hire an exclusive catering company to cater public and private events in and on the Premises.

All of the Tenant's subcontracts must be approved in writing by the Commissioner. If, for example, Tenant elects to hire a catering concession for the Premises:

- A. Tenant's request for proposals for the concession, its proposed concession agreement, and its selection of a caterer are each subject to the Commissioner's express, prior written approval; and



1. Tenant shall use all revenue from the catering concession exclusively to fulfill Tenant's obligations under the Lease Agreement.

**3.12 Despite any other provision in the Lease Agreement, the Lease Agreement does not obligate the City to appropriate or spend money at any time or for any reason, nor to incur any costs or expenses at any time or for any reason.**

#### **Section 4 – Evaluation of Proposals and Submission Requirements**

4.1 A selection committee consisting of Department officials and other City officials will evaluate each Proposal by considering the information and criteria listed below. Each Proposal must include descriptions of all of the following:

1. Respondent's organization, legal formation and structure, history, mission, financial capacity and qualifications to fulfill the Lease Agreement.
2. A description of how the Respondent intends to operate the Premises including the proposed management team, staffing, and proposed fee structure.
3. Respondent's plans to restore, upgrade, repair and maintain the Premises. The Respondent's Proposal should include a list of the individual plan projects beginning with the priority projects and a timeline by which each project will be completed.
4. How Respondent proposes to fund its initial restoration and repair of the Premises, how it proposes to fund additional improvements, fit out, and ongoing maintenance and repair needs of the clubhouse and the golf course.
5. How Respondent will make its proposed use of the Premises financially self-sustaining (for example, without limitation, by committing to set aside catering concession revenues into a dedicated capital repair and replacement account.)

6. The likely benefit of Respondent's Proposal to the neighborhood surrounding the Premises.
7. The general timing of Respondent's proposed restoration, repairs, maintenance and upgrades.
8. All other information about Respondent and its proposed use of the Premises that the Department might reasonably find material to consideration of the Proposal.
9. Level of M/W/ DSBE Participation: The Proposal reflects operation of the Premises that will provide opportunity for women, minority or disabled owned businesses/individuals either through direct ownership or hiring of employees, contractors, suppliers and service providers.

4.2 Each Respondent must clearly label the cover page of its Proposal to identify that Respondent is submitting it in response to this RFP, including the name of this RFP.

4.3 Each Respondent must submit one original transmittal letter to the Project Manager, signed by a person with authority to bind the Respondent, and six copies of its Proposal and the transmittal letter no later than the Deadline to Submit Proposals set forth on the cover page of this RFP.

4.4 If a Respondent chooses to include material of a confidential nature in its Proposal, the Respondent must clearly mark the confidential material with the words "**Confidential Information**" in boldface type and explain why it is confidential. Respondents are reminded that the mere designation of information in a Proposal as confidential does not necessarily make it confidential under Applicable Laws. The Department and City are obligated to comply with Applicable Laws, and the Pennsylvania Right-to-Know Law, 65 P.S. Sect. 67.101 et seq., may require the Department and the City to disclose information regardless of whether it is marked confidential.

4.5 Each Respondent is encouraged to plan to deliver its Proposal with spare time before the Deadline to Submit Proposals in case the Respondent encounters unanticipated delays such as those caused by computer or printer problems, traffic or parking difficulties, weather, and other issues.

## **Section 5—Reservation of Rights**

5.1 At any time prior to executing the Lease Agreement, the Department may, in its sole discretion do the following:

1. Accept or reject any Proposal, or all Proposals, or eliminate from consideration any Proposal that is incomplete or inadequate.
2. Request additional information from one or more Respondents or request meetings with one or more Respondents.
3. Permit, reject, or require amendments (including information inadvertently omitted), modifications, and corrections to Proposals by some or all of the Respondents following their submission of Proposals.
4. Negotiate exclusively with one Respondent, negotiate simultaneously with more than one Respondent, or negotiate with several Respondents one after the other. The Department may discontinue negotiations with one Respondent and start negotiations with another Respondent at any time.
5. Supplement, amend, substitute, or otherwise modify this RFP, or cancel this RFP with or without issuing another RFP. In any RFP or other request by the Department for a Lease Agreement similar to that contemplated here, the Department may require terms and conditions that are substantially different from those set forth in this RFP.
6. This RFP does not commit the Department to award the Lease Agreement. This RFP and the process it describes are proprietary to

the City and the Department and are for the sole and exclusive benefit of the City and the Department. No other party, including any Respondent, is granted any rights by this RFP, by responding to this RFP, or by being selected to negotiate a possible Lease Agreement.

## **APPENDIX A**

### Map of the Premises



# John Byrne Golf Course

## Property Boundaries



PHILADELPHIA  
PARKS & RECREATION





## **APPENDIX B**

### **Brief History and Design Description of the John F. Byrne Golf Course**

John F. Byrne Golf Course is one of the most respected courses in Philadelphia. Opened in 1931 and purchased by the City in the early 1960s, it was renamed after noted Philadelphia City Councilman and Pa. State Senator, John F. Byrne.

The Alexander Findlay layout has played host to numerous tournaments including the Philadelphia Publinks Senior Open Amateur Championship. The course is nestled in and around a valley and features a variety of tree-lined and open fairways. Several elevated tees and greens accent the already rolling terrain, therefore creating dramatic changes in elevation.

The layout is highlighted by the Torresdale Creek which winds its way through the course coming into play on 10 holes. In addition to the water, this golf course features oversized bunkers that are strategically placed to protect the average-sized greens. As an example, par is an excellent score on the 385-yard, par 4, 9<sup>th</sup> hole as the golfer is required to hit a lengthy tee shot followed by an accurate approach shot to a sloped green guarded by two large bunkers.

## **Appendix C**

**Rounds and Revenue from 2015 through June 30, 2019**



# John F. Byrne Golf Course

## Rounds & Revenue

*2015 through June 30, 2019*

<b>ROUNDS</b>	<b>June 30, 2019 YTD</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
Member	0	3,902	4,430	5,358	5,542
Outing	1,214	2,853	2,215	2,209	2,047
Public	6,449	11,453	14,951	15,038	17,376
Total Rounds	7,663	18,208	21,596	22,605	24,965
<b>REVENUE</b>					
Green Fees	111,245	244,961	338,136	355,016	390,152
Cart Fees	41,841	86,936	89,407	98,856	101,181
Golf Cards/Passes	36,124	10,446	1,194	169	31,927
Pro Shop Sales	6,943	21,836	31,692	36,656	39,237
Food (Food & Soft Drinks)	7,064	19,991	26,427	32,864	40,902
Beverages (Alcohol)	13,732	39,324	23,979	18,003	30,119
Other Food & Beverage Revenue	0	78	1,477	0	0
Other Golf Revenues (Club Rent)	80	914	785	190	25
Dues Income - Monthly Dues	0	25,386	45,581	31,054	30,492
Miscellaneous Income and Discounts	617	2,499	1,338	472	2,696
Total Revenue	217,646	452,371	560,016	573,280	666,731

## **Appendix D**

### **Partial List of Repairs and Capital Improvements to be Completed by Tenant**

**Partial List of Repairs and Capital Improvements to be Completed by Tenant**  
**June 2019 Survey**

**Golf Course**

- Chip or remove dumped brush, limbs, logs, etc. located in wooded areas surrounding the golf course. Remove dumped trash and other debris in these areas also.
- Remove dead/dangerous trees throughout the course. List provided upon request.
- Repair wood bridge at hole #1. Rebuild wood bridge at #3 tee.
- Repair cyclone fence along Grant Ave.
- Replace missing cyclone fence at the left side of #15 fairway and the right side of #17 fairway.
- Install paved cart paths throughout the course.
- Replenish traps with sand.
- Enlarge par three tees.

**Clubhouse**

- Repair/replace windows facing golf course.
- Porch roof repairs/new gutters needed throughout.
- Replace sections of exterior siding
- Paint interior/exterior and related repairs.
- Install new carpet in clubhouse.
- Repair 2nd floor roof
- Replace stained ceiling tiles.
- Replace/repair 2nd floor windows.
- Renovate 2nd floor

**Appendix E**  
**List of City Owned Equipment**

# John F. Byrne Golf Course

## Equipment Inventory May 9, 2019

*Updated August 23, 2019*

Manufacturer	Type of Equipment	Model #	Serial #
Angle Master	Bed Knife Grinder	2000	9495
Big Tex	70PI 18' long trailer (poor condition)	cnl	cnl
Bunn	Coffee Maker	392	392P046429
Club Car	Maintenance Cart (no engine)	RG0930	36024
Club Car	Maintenance Cart (bad engine)	RG0934	45201
Club Car	Beverage Cart (not running)	RG9939	808135
N/A	Verticutter 3 pt.	N/A	N/A
N/A	Hot Dog Grill - roller type	N/A	N/A
N/A	Aerator open spoon type 3 pt.	T72-3-9	N/A
Cushman	Core harvester for above	894754	A99082002
Cushman	Turf Truckster	898530	93005225
Cushman	Groom Master	898922	95000209
Cushman	Turf Truckster Jr. (not running needs engine)	8985438	99003741
Express Dual	Reel Grinder	EXDUAL	664
Ford	Tractor city #786123 (not running)	DD222B	C589377
John Deere	Chisel Plow 50A 3 pt.	N/A	N/A
John Deere	4600 Tractor/460 Loader	CV4600	P465403
Lely	Fertilizer/Seed Spreader/ pull type	2320211	3026293
Manitowoc	Ice Machine	B520	40620159
Manitowoc	Ice Machine	BD0253W	940561093
Quiet Blow	Push Blower	QB1004	61300105

Quiet Blow	Push Blower	QB55414HG	92302359
Ransome	728D Riding Rotary	946703	94670300614
Speed Roller	Roller/trailer (needs repair)	SR103HS	SRO71320
Stihl	Back Pack Blower	BR380	N/A
Stihl	Pole Saw	cnl	274618517
Stihl	Line Trimmer	FS90R	505259909
Stihl	Chain Saw	MS 271	517701672
Toro	Pro Force Blower (trailer type)	4453	290000204
Toro	Groundsmaster 4500D	30856	230000309
Toro	Multi Spray Por 1250	41117	280000307
Toro	Reelmaster 5410	03670N	313000650
Toro	Greenmaster 3100	4356	210000272
Toro	Greenmaster 3100 (parts only)	4356	2960400136
Toro	Workman 3300D	7362	290000108
Toro	Drop spreader for Workman 3300D	N/A	N/A
Toro	5400D Reel Master	N/A	N/A
Vizio	(2) Large TVs	N/A	N/A
Wwyott	Bun Warmer	N/A	N/A
Yard machine	walk behind snow blower (not running)	31A3BAD729	1S255I20035

**Appendix F**  
**Insurance Requirements**

A. Tenant shall procure and maintain throughout the Term of the Agreement, at its sole cost and expense, the types and minimum limits of insurance coverage specified below. Tenant 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. Tenant 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 or non-renewed. All insurance required in this RFP and in the Lease 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 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. Employers Liability, 2. General Liability and 3. Auto Liability coverages 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 covering their errors 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, including the Golf Course Club House building in Tenant'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, Tenant (or Tenant'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. Tenant shall cause the City, its officials, officers, employees and agents, to be named additional insureds on all policies required under this RFP and the Lease Agreement except the Workers Compensation and Employer's Liability and Professional Liability Insurance and loss payee on the All Risk Property Insurance. Tenant 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. Tenant 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 – 14<sup>th</sup> Floor, 1515 Arch Street, Philadelphia, PA 19102, within ten (10) days after the execution date of the Lease Agreement and at least ten (10) days before each Renewal Term, if any. Tenant shall cause the actual endorsement adding the City as an additional insured to be 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 Tenant's indemnifications of the City under this RFP and the Lease Agreement and do not limit Tenant's liability under the Tenant Agreement to the limits of the policies of insurance required to be maintained by Tenant.

E. Tenant shall cause all proceeds of the All Risk Property insurance and Builder's Risk policies to be payable to the City to use for the restoration or repair of the Premises, in the event of a loss.

F. Tenant shall cause each policy of insurance required under this RFP and the Lease Agreement, to include a provision for a waiver of subrogation in favor of City.

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

**Appendix G**  
**Economic Opportunity Plan**

**City of Philadelphia  
Economic Opportunity Plan**

**Lease, Improve, Maintain and Operate The John F. Byrne Golf Course**

I. Introduction, Definitions and Diversity Practices

A. Chapter 17-1600 of The Philadelphia Code requires the development and implementation of “Economic Opportunity Plan(s)” for certain classes of contracts and covered projects as defined in Section 17-1601. The Economic Opportunity Plan (“Plan”) memorializes the Applicant’s best and good faith efforts to provide meaningful and representative opportunities for Minority Business Enterprises (“MBEs”), Woman Business Enterprises (“WBEs”) and Disabled Business Enterprises (“DSBEs”) (collectively, “M/W/DSBEs” which also includes firms designated as Disadvantaged Business Enterprises or “DBEs”<sup>1</sup>) and an appropriately diverse workforce in connection with the contract or covered project.

This Request for Proposal (hereinafter, “RFP”) and any resulting “contract” (which may be a lease) are subject to the Plan requirements as described in Section 17-1603 (1). Accordingly, by submission of its proposal, a responsive and responsible Applicant makes a legally binding commitment to abide by the provisions of this Plan which include Applicant’s commitment to exercise its best and good faith efforts throughout the contract term to provide meaningful and representative contracting opportunities for M/W/DSBEs and to employ an appropriately diverse workforce which should include minority and female persons in all phases of any contract awarded under this RFP. By submission of this Plan, Applicant agrees that it shall and shall cause all its contractors, professional services providers and consultants retained by Applicant (collectively, the “Participants” and each a “Participant”) to use their best and good faith efforts to provide subcontracting opportunities for M/W/DSBEs in all phases of the contract. This Plan expressly applies to all contracts awarded by the successful Applicant and subcontracts awarded by its Participants. The objectives set forth in this Plan shall be incorporated in all requests for proposals and solicitations and communicated to all Participant levels.

B. For the purposes of this Plan, MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by the City of Philadelphia through its Office of Economic Opportunity (“OEO”). Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency<sup>2</sup> or identified in the OEO Registry will be eligible to receive credit as a Best and Good Faith Effort. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at [www.phila.gov/oEO/directory](http://www.phila.gov/oEO/directory). If Applicant is certified by an approved certifying agency, a copy of that certification should be furnished with the proposal.

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<sup>1</sup> “DBE” or “Disadvantaged Business Enterprise” means a socially and economically disadvantaged minority or woman owned business that is certified under 49 C.F.R. Part 26. If applicant makes solicitation(s) and commitment(s) with a DBE, applicant shall indicate which category, MBE or WBE, is submitted for counting.

<sup>2</sup>A list of “OEO approved certifying agencies” can be found at [www.phila.gov/oEO](http://www.phila.gov/oEO)

C. Neither Applicant nor any Participant shall discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, ancestry, age, or handicap in the award and performance of contracts pertaining to this RFP. Applicant is required to submit a statement summarizing current and past practices relating to its diversity practices. Attachment "A" to this Plan is provided for this purpose and should be submitted with Applicant's proposal although the City reserves the right to request it at any time prior to contract award.

**Applicant and its Participant(s) hereby verify that all information submitted to the City including without limitation, the Plan and all forms and attachments thereto, are true and correct and are notified that the submission of false information is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities. Applicant and its Participants also acknowledge that if awarded a contract/subcontract resulting from this RFP, it is a felony in the third degree under 18 Pa.C.S. Section 4107.2 (a)(4) if, in the course of the contract/subcontract, Applicant and/or its Participant(s) fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women's business enterprises.**

## II. Goals

For this Plan, the term "Best and Good Faith Efforts," the sufficiency of which shall be in the sole determination of the City, means: efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and achieve an appropriately diverse workforce. Best and Good Faith Efforts are rebuttably presumed met, when a Applicant makes, or causes its Participants to make commitments within the M/W/DSBE Participation Ranges established for this Proposal and commits to employ a diverse workforce.

### A. M/W/DSBE Participation Ranges

As a benchmark for the Applicant's expression of its Best and Good Faith Efforts to provide meaningful and representative opportunities for M/W/DSBEs in the contract, the following participation ranges have been developed. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable on this contract through the exercise of Applicant's Best and Good Faith Efforts. 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) 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. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of MBEs, WBEs and DSBEs to perform various elements of the contract:

PROPOSAL	MBE		WBE
Capital Improvements	18% - 22%	And	12% - 16%
Operations and Maintenance	15% - 20%	And/or	15% - 20%
Concessions and Catering	10% - 15%	And/or	10% - 15%

### III. Applicant Responsiveness and Responsibility

A. Applicant shall identify all its M/W/DSBE commitments and evidence its agreement to employ a diverse workforce on the form entitled, "M/W/DSBE Participation and Workforce Commitments." The Applicant's identified commitment to use an M/W/DSBE on this form constitutes a representation by Applicant, that the M/W/DSBE is capable of completing the subcontract with its own workforce, and that the Applicant has made a legally binding commitment with the firm. The listing of the M/W/DSBE firm by Applicant further represents that if Applicant is awarded the contract, Applicant will subcontract with the listed firm(s) for the work or supply effort described and the dollar/percentage amount(s) set forth on the form. In calculating the percentage of M/W/DSBE participation, Applicant shall apply the standard mathematical rules in rounding off numbers. In the event of inconsistency between the dollar and percentage amounts listed on the form, the percentage will govern. Applicant is to maintain the M/W/DSBE percentage commitments throughout the term of the contract which shall apply to the total amount of the contract and any additional increases. In the event the Successful Applicant's contract is increased by change order and/or modification, or amendment, it shall be the responsibility of the Successful Applicant to apply its Best and Good Faith Efforts to the amended amount in order to maintain any participation ranges committed to on the total dollar amount of the contract at the time of contract completion.

#### 1. Commercially Acceptable Function

An Applicant that enters into a subcontract with an M/W/DSBE shall be considered to have made a Best and Good Faith Effort in that regard only if its M/W/DSBE subcontractor performs a commercially acceptable function ("CAF"). An 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 RFP), 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; 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.

The City 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 and in determining the amount of credit the Applicant receives towards the participation ranges. For example, a Applicant using an M/W/DSBE non-stocking supplier (i.e., a firm that does not manufacture or warehouse the materials or equipment of the general character described by the RFP and required under the contract) to furnish equipment or materials will only receive credit towards the participation ranges for the fees or commissions charged, not the entire value of the equipment or materials furnished.

B. Upon award, letters of intent, quotations, and any other accompanying documents regarding commitments with M/W/DSBEs, including the M/W/DSBE Participation and Workforce Commitments Form, become part of the contract. M/W/DSBE commitments are to be memorialized in a written subcontract agreement and are to be maintained throughout the term of the contract and shall apply to the total contract value (including approved change orders and amendments). Any change in commitment, including but not limited to termination of the subcontract, reduction in the scope of committed work, substitutions for the listed firms, changes

or reductions in the listed dollar/percentage amounts, must be pre-approved in writing by OEO. Throughout the term of the contract, Applicant is required to continue its Best and Good Faith Efforts.

**C. In the event Applicant does not identify on the M/W/DSBE Participation and Workforce Commitments Form that it has made M/W/DSBE commitments within the participation ranges established for this RFP and/or does not agree to employ a diverse workforce as described herein, Applicant must complete and submit a *Documentation of Best and Good Faith Efforts Form* (“BGFE Form”), documenting its solicitations and any commitments with M/W/DSBEs, and detailing any efforts made to include M/W/DSBEs in the contract and to employ a diverse workforce.** The submission of the BGFE Form is an element of proposal responsiveness and failure to include this form may result in the rejection of the Proposal. The BGFE Form must include at a minimum, certification and documentary evidence that the following actions were taken:

1. Solicitation directed to both qualified M/W/DSBEs registered with OEO and qualified M/W/DSBEs certified by agencies approved by OEO. Applicant must provide a list of all certification directories used for soliciting participation for this RFP. Applicant must determine with reasonable certainty if the M/W/DSBEs are interested by taking appropriate steps to follow up on initial solicitations; one time contact, without follow up, is not acceptable; and

2. Applicant provided interested M/W/DSBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation; and

3. Applicant negotiated in good faith with interested M/W/DSBEs. An Applicant using good business judgment would consider a number of factors in negotiating with subcontractors, including M/W/DSBE subcontractors, and would take a firm’s price and capabilities as well as the objectives of the Plan into consideration; and

4. Documentation of the following:

i. Any commitments to use M/W/DSBEs in its proposal for subcontracted services and materials supply even when Applicant would otherwise prefer to self-perform/supply these items; and

ii. Correspondence between the Applicant and any M/W/DSBE(s) related to this Proposal; and

iii. Attendance logs and/or records of any scheduled pre-proposal meeting; and

5. Certification and evidence that the following actions were taken or documentation of the following, or an explanation why these actions were not taken or why documentation does not exist:

i. Any arms length business assistance provided to interested M/W/DSBEs; and

ii. Solicitation through job fairs, newspapers, periodicals, advertisements and other organizations or media that are owned by M/W/DSBEs and/or focus on M/W/DSBEs; and

iii. Telephone logs of communications related to this RFP; and

iv. Notification of and access to proposal documents at the Applicant's office or other office locations for open and timely review; and

v. Applicant sought assistance from the Urban Affairs Coalition, Careerlink Philadelphia, Opportunity Industrial Center and the Philadelphia Workforce Development Corporation to perform employment outreach; and

vi. Applicant published its policy of nondiscrimination in the hiring, retention and promotion of employees; and

vii. Any agreement with a training program that targets the employment of minority persons, disabled persons and women.

#### IV. Evaluation of Responsiveness and Responsibility

##### A. Evaluation and Determination

1. The City, acting through its OEO, will evaluate the responsiveness of the Applicant's Plan to these requirements. OEO reserves the right to request further documentation and/or clarifying information at any time prior to the award of the contract which may result in Applicant's amendment of its M/W/DSBE Participation and Workforce Commitments Form or BGFE Form.

##### B. Administrative Reconsideration

1. If the OEO determines that the Applicant has not made sufficient Best and Good Faith Efforts, the Applicant will be notified that its proposal is nonresponsive and may file a written appeal with OEO within forty-eight (48) hours of the date of notification. The decision of 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 designee whose decision shall be final. If it is determined that the Applicant did not make sufficient Best and Good Faith Efforts, its Proposal will be rejected.

2. Notwithstanding compliance with the requirements set forth herein, the City reserves the right to reject any or all proposals as deemed in the best interest of the City.

#### V. Compliance and Monitoring of Best and Good Faith Efforts



A. The Successful Applicant shall file a hard copy of this Plan, as certified below by OEO, with the Chief Clerk of City Council within fifteen (15) days of receiving a Notice of Award. The Plan shall be filed with:

Michael Decker, Chief Clerk of City Council  
Room 402 City Hall  
Philadelphia, Pennsylvania 19107

The Successful Applicant also agrees to cooperate with OEO in its compliance monitoring efforts, and to submit, within the time limits prescribed by OEO, all documentation which may be requested by OEO relative to the awarded contract, including the items described below. The Successful Applicant must provide as required and maintain the following contract documentation for a period of three (3) years following acceptance of final payment under the contract:

- Copies of signed contracts and purchase orders with M/W/DSBE subcontractors;
- Evidence of payments (cancelled checks, invoices, etc.) to subcontractors and suppliers to verify participation;
- Telephone logs and correspondence relating to M/W/DSBE commitments.

B. Prompt Payment of M/W/DSBEs

1. The Successful Applicant and its Participants shall agree to promptly pay their M/W/DSBEs for work satisfactorily performed. In connection with payment of its M/W/DSBE subcontractors, the Successful Applicant agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.

2. Each month of the contract term and at the conclusion of the contract, the Successful Applicant shall provide to the OEO documentation reconciling actual dollar amounts paid to M/W/DSBE subcontractors to M/W/DSBE commitments presented in the Plan.

C. Oversight Committee

1. For this project, the City, in its sole discretion, may establish a Project Oversight Committee consisting of representatives from the Applicant's company and the City ("Committee"). The Committee will meet regularly to provide advice for the purpose of facilitating compliance with the Plan.

2. If a Committee is established, the City will convene meetings of the Committee no later than one (1) month after issuance of the Notice To Proceed.

## VI. Remedies and Penalties for Non-Compliance

A. The Successful Applicant agrees that its compliance with the requirements of the Plan is material to the contract. Any failure to comply with these requirements may constitute a substantial breach of the contract. It is further agreed and understood that in the event the City determines that the Successful Applicant hereunder has failed to comply with these requirements the City may, in addition to remedies reserved under Section 17-1605 of The Philadelphia Code, any other rights and remedies the City may have under the contract, or any bond filed in connection therewith or at law or in equity, exercise one or more of the remedies below, which shall be deemed cumulative and concurrent:

1. Terminate the lease, in whole or in part.
2. Suspend/Debar the successful Applicant from proposing on and/or participating in any future City contracts for a period of up to three (3) years.

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 RFP nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors. No privity of contract exists between the City and the M/W/DSBE subcontractor identified in any contract resulting from this RFP. 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 subcontracted services under any law or Executive Order or by any reason of any contract resulting from this RFP 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.

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PRINT NAME OF APPLICANT AND TITLE

DATE

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SIGNATURE OF APPLICANT AND TITLE

DATE

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IOLA HARPER, DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY<sup>3</sup>    DATE

*[See Forms on following pages; these Forms, as completed by Applicant, must be submitted with the Application as a matter of Responsiveness and Responsibility.]*

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<sup>3</sup> Pursuant to Section 17-1603 (2) of The Philadelphia Code, the representative of the City of Philadelphia's Office of Economic Opportunity, the "certifying agency", certifies that the contents of this Plan are in compliance with Chapter 17-1600.

# STATEMENT OF DIVERSITY PRACTICES, POLICIES AND PAST ACHIEVEMENTS

*In compliance with Chapter 17-1603 entitled Equal Opportunity Plan: Contents The Economic Opportunity Plan shall contain a statement from the contractor, developer and/or recipient of financial assistance summarizing past practices by identifying and describing examples of processes used to develop diversity at any/all levels of its organization including, but not limited to, Board and managerial positions. This statement shall also summarize strategic business plans specific to current or past practices of M/W/DSBE utilization on government and non-government projects and procurement. Where appropriate, such a statement should contain:*

1. Describe employment and recruitment policies used to achieve diversity in your workforce.
2. Provide the race, gender, and residential (local) status of your
  - a) Board of Directors
  - b) Management
  - c) General Workforce
3. Identify your organization's methods of solicitation and utilization of Minority, Woman and Disabled Businesses (M/W/DSBEs). Please be specific in describing outreach and any procurement policies that are focused on creating or sustaining business relationships with M/W/DSBEs.

4. What percentage of your company's total spend with vendors and suppliers is attributable to M/W/DSBEs? Please include a list of the largest M/W/DSBEs used by your organization in the last 12 months.
  - a) Identify the type of goods or services purchased
  - b) Amount of the contract.
  - c) Indicate if any of these M/W/DSBEs are listed in the City of Philadelphia's Office of Economic Opportunity Registry.
  - d) Are these companies certified as M/W/DSBEs? Do you rely on any particular certifying agency?
  - e) If there is no previous M/W/DSBE utilization, the Plan shall contain a statement that explains the reason for the lack of M/W/DSBE participation in past contract(s) or project(s).
5. Describe any initiatives made by your organization to increase investment and promote equity ownership by minorities and women.