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**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE PARK SERVICE**

REQUEST FOR PROPOSAL

**Operation of
the Spring Meadow Golf Course and
Inn**

Wall Township, Monmouth County

Release Date:

May 1, 2024

**Mandatory Pre-Bid Meeting
and Site Visit (Refer to Section 3.11
for additional details):**

**May 30, 2024 – 1:30 p.m. at the Spring
Meadow Inn (4185 Atlantic Ave.,
Farmingdale, NJ).
Rain Date: June 4, 2024 at 1:30 p.m.**

Written Question Cut-Off :

May 31, 2024

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Bid Submission Due Date: ~~June 27, 2024~~ ~~July 15, 2024~~ ~~August 1, 2024~~
August 22, 2024 (by noon)

1 GENERAL INFORMATION

1.1 PURPOSE AND INTENT

1.1.1 This Request for Proposal (“RFP”) is issued by the New Jersey Department of Environmental Protection (“Department”), State Park Service, on behalf of the State of New Jersey (“State”). The purpose of this RFP is to solicit proposals from qualified bidders to operate, maintain, and manage the Spring Meadow Golf Course Property (“Leased Premises”), which includes the Spring Meadow Golf Course (“Golf Course”) and the restaurant with a bar and the halfway house (collectively, “Inn”), located in Wall Township, Monmouth County, New Jersey. The Department is seeking an operator that has experience and knowledge in operating golf courses, providing high quality food and services, is financially stable, and shows strength in customer service commitment and employee performance.

1.1.2 It is the goal of the State to select a bidder to continue the safe and efficient operation of the Leased Premises. Thus, the Department intends to enter into a Lease Agreement (“Lease Agreement” or “Agreement”) with a bidder (“Tenant”) that has the demonstrated financial capacity, and experience with operating a golf course, restaurant, bar, and banquet/catering venue to provide these functions of business and services over the life of the Lease Agreement and will both operate and develop the Golf Course and Inn in accordance with Federal, State, and local laws and the terms set forth in the Lease Agreement. The operation of the Golf Course is expected to be a year-round public golf course facility. The Tenant shall, at a minimum, provide food service from the Inn during the normal operating hours of the Golf Course. The Department welcomes the use of the Inn for diverse dining experience and events as long as those events do not violate this RFP, the Lease Agreement, public policy, or any documents made a part thereof.

1.1.3 The successful bidder will have exclusive use of the Leased Premises, a map of which is attached hereto as Exhibit A. The successful bidder will be responsible for the day-to-day and full-time operation of the Golf Course and Inn for the benefit of the golfers and patrons, as well as the physical and commercial development of the Leased Premises in accordance with the Department’s goals.

1.1.4 The successful bidder will enter into a Ten (10) year Lease Agreement with the Department and will have the potential to renew the Lease Agreement for an additional Ten (10) year term. As consideration for entering into the Lease Agreement, the successful bidder shall propose to pay the State the following Rent:

Rent:

Leased Premises: a minimum annual rental amount equal to or greater than **Three Hundred Twenty-Five Thousand Nine Hundred and Eight Dollars (\$325,908.00)**

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during each said calendar year, with the understanding that the first and last year Rent may not be based on full calendar years.

The Rent shall be adjusted up annually by three (3%) percent and shall be paid in twelve (12) monthly installments and due on the Effective Date of the Lease Agreement and on the first (1st) of every month thereafter. All rent shall be paid in accordance with the terms set forth in this RFP and the Lease Agreement, which is attached to this RFP as Exhibit B.

1.1.5 The successful bidder shall be the qualified, responsible, and experienced bidder whose proposal is most responsive to the State's goals for the property, whose plan provides a realistic means of generating revenue for the State, and other factors as discussed in Sections 3.2 and 3.4.

1.1.6 The successful bidder shall be allowed to apply for an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control (NJ DABC) to sell and serve alcoholic beverages for on-premises consumption in conjunction with the restaurant, bar, halfway house, mobile food/beverage cart, and banquet/catering events.

1.1.7 All bidders shall submit as part of their bid proposals an Operational Management Plan setting out in detail how they propose to operate, manage, develop and improve the Golf Course and Inn.

1.1.8 All bidders shall explain what changes or improvements they may wish to make to the Leased Premises, if any, as part of their proposals. The successful bidder may not make any improvements to the Leased Premises without prior Departmental-written approval.

1.1.9 Joint venture proposals submitted in response to this RFP are prohibited pursuant to Section 2.8.

1.2 BACKGROUND

1.2.1 Spring Meadow Golf Course is a fully-operational year-round 18-hole public golf course with a driving range in Wall Township, Monmouth County, New Jersey. The restaurant/bar and halfway house were designed and constructed to provide restaurant-type food and refreshments (alcoholic and non-alcoholic beverages) for golfers and patrons as a full-service restaurant with a full-service bar.

1.2.2 The entire Leased Premises consists of approximately 176.66 acres with the actual Golf Course encompassing about 70 acres. The Leased Premises is designated as portions of Block 958, Lots 3, 6 and 7, Block 959, Lot 3 and Block 970, Lots 9 and 13 on the Tax Map of Wall Township, Monmouth County, New Jersey, and set forth in Exhibit A.

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1.2.3 The Leased Premises was originally built in two phases during the 1920's and 1940's and was owned by the Bennett Family until the State purchased it in the 1970's through the Department's Green Acres Program. The Golf Course is currently being managed as a public golf course by an operator through an Operating Agreement executed with the Department. The Inn was separately managed by an operator through an Operating Agreement with the Department which recently expired.

1.2.4 The operation of the Inn is included in this RFP to compliment the operation of the Golf Course and provide additional opportunities to enhance the overall operation of the Golf Course by giving the Tenant the ability to utilize the space for banquets and catered events. A liquor license is not guaranteed as part of the RFP or the Lease Agreement. It will be the responsibility of the successful bidder to apply to the Director of the Division of Alcoholic Beverage Control for, and be qualified to hold, an Annual State Permit License to sell and serve alcoholic beverages for on-premises consumption. If the successful bidder obtains an Annual State Permit License from the Division of Alcoholic Beverage Control, it will be required to directly operate the restaurant/bar and halfway house and will not be permitted to enter into a subcontract or sublease for this operation.

1.3 STRUCTURES AND FACILITIES

1.3.1 Golf Course:

- a. There is a clubhouse/pro-shop which is a two-story building. The first floor encompasses the pro-shop, two public bathrooms, wrap-around porch and storage areas. The second floor includes reception/office areas and bathroom. The first and second floor have separate zones for heat (oil, forced air) and air conditioning and a boiler (oil fired) for hot water. Tenant may operate a pro shop on the Golf Course. Sales at the pro shop may include, but are not limited to, merchandise, golf equipment, golf cart and equipment rentals ("Pro Shop"). The Tenant shall be responsible to acquire any and all equipment, supplies and inventory necessary to operate the Pro Shop.
- b. The maintenance shop is a one-story facility with two bathrooms, a break room/office area, attached chemical storage area and a small storage closet on the exterior of the building. The facility has two zones for heat (oil, forced air) in addition to one additional area propane heater and electric hot water for the bathrooms.
- c. There is a driving range which has a small structure that can be utilized for the rental/sale of golf balls, cleaning and storage for operations at the driving range. The Tenant may add an automated golf ball rental/sale machine in this structure. Because there is a public parking lot immediately adjacent to the driving range,

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only limited flight balls shall be permitted on the driving range and the use of drivers shall be prohibited.

- d. The pump house is a block building used to house the pump station and repair and maintenance parts for the irrigation system. The building has electric heat. The successful bidder shall be solely responsible for the cost of maintenance and repair for the electrical supply lines and poles, which extend from the meter panel at #5 Green to the transfer pump at the Manasquan River and from the Manasquan River to the refreshment stand on #8 Tee.
- e. The Cart Storage Buildings consist of two pole barns that have the storage capacity for 65-70 golf carts and a loft area for storage.
- f. There are currently three temporary structures located on the driving range, as set forth in Exhibit A, that are the personal property of the current golf course operator and are not included in this RFP. If the current operator is not the successful bidder, the structures will be removed prior to the start of the Lease Agreement.

1.3.2 Inn:

- a. The restaurant/bar and halfway house are located on the Leased Premises to provide restaurant-type food and refreshments (alcoholic and non-alcoholic beverages) for golfers and patrons as a full-service restaurant with a full-service bar. The operation of the restaurant/bar facility is expected to be year-round during the normal operating hours of the Golf Course. The hours of operation must be pre-approved in writing by the Department.
- b. The restaurant/bar facility is a two-story structure with a partial basement and was designed for restaurant, bar, and special event usage on the first floor. There is also an outdoor paver patio area. The first floor interior is comprised of a kitchen area, dining room area and an adjacent bar area. There are two restroom facilities adjacent to the bar and main dining room. The second floor consists of office and storage space over the kitchen area. As the office/storage space is under the pitched roof eaves, the head room is limited along the sides of the space. Floor plans are attached hereto as Exhibit C.
- c. The restaurant/bar is fully-operational with water, electricity, gas, and telephone lines.
- d. The design of Golf Course does not lead golfers back to the Inn after the 5th hole until returning on the 18th hole. The halfway house is a one-floor structure that was designed to provide the golfers “takeout/to-go” beverages, lunch-type

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food items, and snacks, while on the Golf Course. There is no seating and/or area for the golfers to eat or drink at the halfway house. The hours of operation for the halfway house shall be pre-approved in writing by the Department.

- e. Tenant may dispense food and non-alcoholic and alcoholic beverages from Mobile Food/Beverage Cart(s), if approved by the Division of Alcoholic Beverage Control.

1.3.3 Parking

1.3.3.1 All parking lots are shared by patrons of the Golf Course and the Inn. Tenant may leave vehicles in this lot overnight if required for Tenant's business and with the Department's written approval. The Tenant will be solely responsible for the maintenance, upkeep, repairs and improvements to the parking lot, at its sole cost and expense.

1.4 REQUIRED IMPROVEMENTS

1.4.1 In consideration of the Ten (10) Year Renewal Term, the successful bidder will be required to complete the following Required Improvements on the Leased Premises prior to the expiration of the initial Ten (10) Year Term:

- (i) The existing pedestrian bridge on the Golf Course recently collapsed. The Tenant shall be required to construct a new pedestrian bridge. Tenant shall submit plans for Department review and approval prior to commencing any of the work. This Improvement must be addressed immediately and completed within one (1) year of the Effective Date of the Agreement. The Department may consider, at its sole discretion, extending the one (1) year time frame for good cause shown, if requested in writing by Tenant. Tenant must provide, in writing, justification for such request.
- (ii) Erosion is occurring near the 8th hole on the Golf Course. The Tenant shall be required to hire an engineer to evaluate the erosion and recommend potential solutions. Based on the recommended solutions, the Tenant shall be responsible for completing any necessary work to control and prevent further erosion in this location. This Required Improvement must be addressed immediately and completed within one (1) year of the Effective Date of the Agreement. The Department may consider, at its sole discretion, extending the one (1) year time frame for good cause shown, if requested in writing by Tenant. Tenant must provide, in writing, justification for such request.
- (iii) Replace the roof on the restaurant/bar building;
- (iv) Replace the roof on the club house/pro-shop building;
- (v) A tree branch fell on the roof of the Halfway House during a recent storm and caused damage to areas of the building, including to the roof, siding boards and fascia. The Tenant shall be required to hire a contractor to evaluate the damage

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and make the necessary repairs. Tenant shall submit plans for Department review and approval prior to commencing any of the work.

- (vi) The fascia board and soffit above the walk-in freezer on the outside of the restaurant has rotted and must be replaced.
- (vii) Areas of sheet rock on the ceiling of the restaurant building are moldy and damaged due to a leaking roof and must be replaced.

All Required Improvements are subject to review and written approval of the Department in accordance with the Lease Agreement and prior to completing any of the work. Department's written approval of any Required Improvement shall not be construed to relieve the Tenant of the responsibility to obtain and maintain all licenses, certificates, permits and approvals. Tenant shall be required to comply with the required Federal, State and local authorities, regulations or requirements pertaining to the improvement undertaken as part of any approved Required Improvement. The Tenant shall be solely responsible for construction and maintenance of all Department approved Required Improvements. In the event any of the Required Improvements are completed within the first three (3) years of the Initial Term of the Agreement, Tenant shall upon completion of the Required Improvement and with the documented costs for the construction of the Improvement that is determined satisfactory by Department, be permitted to offset the Rent against the cost of the construction of the Required Improvement pursuant to Subsection 1.7.3.

1.5 LEASED PREMISES; PERSONAL PROPERTY

1.5.1 The Leased Premises shall consist of all that certain land and improvements thereon consisting of approximately 176.66 acres with the actual Golf Course encompassing about 70 acres and designated as portions of Block 958, Lots 3, 6 and 7, Block 959, Lot 3 and Block 970, Lots 9 and 13 on the Tax Map of Wall Township, Monmouth County, New Jersey, and set forth in Exhibit A. The Leased Premises includes the Inn, which consists of the restaurant/bar, halfway house, and a mobile food/beverage cart if provided by Tenant, and the Golf Course, which is an eighteen-hole public golf course and driving range, together with any buildings, structures, parking lots and improvements located on the land and premises. A map of the Leased Premises is attached hereto and incorporated by reference as Exhibit A. It is expressly understood that this Lease Agreement does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the property to Tenant.

1.5.2 The following easements are located on the Leased Premises (the Department is in the process of locating copies of these easements):

- (i) New Jersey American Water has an easement through the Golf Course for a water main; and
- (ii) Jersey Central Power and Light has an easement through the Golf Course to service and maintain electrical service to the pump house and meter panel at #5 Green; and

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- (iii) Verizon has an easement through the Golf Course for phone service to the pump house.

1.5.3 Tenant shall agree to provide all the personal property, equipment and supplies necessary to perform under the Lease Agreement. Prior to the Lease Agreement being signed, the successful bidder shall provide a list of all items that are personal property that shall not become a part of the Department's property. The list of personal property items shall be attached as an exhibit to the Lease Agreement. Tenant shall agree to provide an updated list, as often as necessary, to the Department. All other Improvements, as defined in Section 1.21 shall become the property of the Department pursuant to Section 1.22.

1.6 TERM

1.6.1 The term of the Lease Agreement shall commence on the day and year first written at the top of the Lease Agreement ("Effective Date"). Tenant shall agree to operate the Leased Premises during the Term of the Lease Agreement beginning on the Effective Date and continuing for a period of Ten (10) years (the "Initial Term") from that date until the expiration of the Lease Agreement ("Expiration Date"), unless the Lease Agreement shall end sooner pursuant to any of the terms, covenants, or conditions, herein provided or pursuant to law. Department may terminate the Lease Agreement during the Term of the Lease Agreement in accordance with the termination provisions as contained herein and in the Lease Agreement, or in accordance with applicable law. In the event of such termination, after expiration of the notice period, Tenant shall not be permitted to enter the Leased Premises without the accompaniment of a representative of Department.

1.6.2 Tenant shall agree to take responsibility for the Leased Premises upon the Effective Date of the Lease Agreement.

1.6.3 Provided that no event of default has occurred and is continuing and provided that the Required Improvements set forth in Section 1.4 have been completed, Tenant may request that the term of the Agreement be renewed for a single additional ten (10) year period (the "Renewal Term") by giving Department written notice of Tenant's request to renew no less than one hundred and eighty (180) days prior to the expiration of the Initial Term of the Agreement. Department may, in its sole discretion, for cause or convenience, terminate or grant a Renewal of the Agreement. In the event that Tenant's request for renewal is not approved by Department on or before ninety (90) days prior to the scheduled expiration date of the Initial Term of the Agreement, said request shall be deemed to have been denied and the Agreement shall expire as herein provided. The Initial Term and the Renewal Term are hereinafter collectively referred to as the "Term".

1.7 RENT, ADDITIONAL RENT

1.7.1 Tenant shall agree to pay to the Department a minimum annual fixed fee ("Rent") of **Three Hundred Twenty-Five Thousand Nine Hundred and Eight Dollars (\$325,908.00)** during

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each said Calendar Year, with the understanding that the first and last year Rent may not be based on full calendar years.

1.7.2 The Tenant shall agree to pay the minimum total Rent of _____ in twelve (12) monthly installments of _____ on the first (1st) of each month. When Tenant signs the Lease Agreement, they shall make a Rent payment in the amount of _____ to cover the first (1st) month installment term of _____. **The Rent shall be adjusted up annually, on the anniversary of the Effective Date, by three (3%) percent pursuant to Subsection 1.1.4.**

1.7.3 If Tenant constructs a Required Improvement pursuant to Section 1.4 within the first three (3) Lease Years of the Agreement, Tenant shall upon completion of the Required Improvement and with the documented costs for the construction of the Required Improvement that is determined satisfactory by Department, be permitted to offset the Rent against the cost of the construction of the Required Improvement. If approved by the Department in writing, the Rent shall be offset against the costs incurred by the Tenant in connection with completing the Required Improvement as approved by the Department and undertaken by or on behalf of the Tenant during the first three (3) Lease Years of the Agreement, until such costs are recaptured by the Tenant in full. The Department shall limit the Tenant's offset costs to only the construction of the Required Improvement. The Tenant shall agree to be solely responsible for all costs for preparation of construction management including preparation of plans and specifications, bid documents, advertising and permits and approvals. After the conclusion of the third (3rd) Lease Year, Tenant shall agree to be responsible, at its sole cost and expense, for the cost of all Required Improvements set forth in Section 1.4.

1.7.4 Pursuant to Subsections 1.11.7 & 1.11.8, the Department will reduce the annual Rent for the first year of the Lease Agreement by \$24,000 in the event that the Tenant is not able to, or chooses not to, obtain a liquor license in the first year of the Lease Agreement. However, to obtain the Rent reduction the Tenant shall be required to submit proof that the license application was denied or a certification that it does not intend to apply for the license in the first year of the Lease Agreement. If the Department grants the reduction, the 3% annual rent escalation shall be applied to the adjusted rent in the second and subsequent years of the Lease Agreement. However, if the Tenant is granted a liquor license, the Department will not abate the first year's Rent for the months during which the liquor license application is pending.

1.7.31.7.5 If the Department reduces the Rent due to the failure of the Tenant to obtain a liquor license in the first year of this Lease Agreement (whether by choice or through denial of a license application), and the Tenant obtains a liquor license later in the term of this Lease Agreement, the Department will increase the annual rent by \$24,000 plus a 3% annual increase (depending on in which year of this Lease Agreement the license is obtained).

1.7.41.7.6 Any Rent Payment not made on or before the first (1st) day of the month shall be considered past due. A five (5%) percent late fee of the total past due amount shall be assessed on the tenth (10th) day after the Rent Payment becomes past due and every thirty (30)

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days thereafter.

1.7.51.7.7 In the event any check for payment is returned to the Department, all future compensation shall be made by Certified or Cashier's Check only.

1.7.61.7.8 If Department incurs any expense by Tenant's failure to perform any obligation under the Agreement or by reason of a material breach of the Agreement by Tenant, Tenant shall agree to be liable for payment of such reasonable expense, including reasonable attorney's fees and costs, which shall be deemed additional rent ("Additional Rent") and payable by the Tenant to Department within thirty (30) days of notice of such expense. After thirty (30) days, and every thirty (30) days thereafter, all past due Additional Rent payments shall be assessed a five percent (5%) late fee of the total amount. A five (5%) percent late fee of the total past due amount shall be assessed on the tenth (10th) day after the Additional Rent Payment becomes past due and every thirty (30) days thereafter.

1.7.71.7.9 All Rent and Additional Rent Agreement Payments shall be paid by check made payable to "Treasurer-State of New Jersey" and sent to:

Department of Environmental Protection
 Office of Transactions and Public Land Administration
 Public Land Administration
 P.O. Box 420, Mail Code: 401-07
 Trenton, New Jersey 08625-0420

1.8 PURPOSE

1.8.1 Tenant shall agree to not use or occupy the Leased Premises for any purpose other than:

- (i) The maintenance, repair, improvement, management and operation of the Spring Meadow Golf Course as a public golf course; and
- (ii) The maintenance, repair, improvement, management and operation of the Spring Meadow Inn, which includes the operation of the restaurant/bar, halfway house and a mobile food/beverage cart; and
- (iii) high-quality banquet/catering events at the Inn; and
- (iv) golf outings, tournaments and camps at the Golf Course; and
- (v) the operation of a Pro Shop at the Golf Course pursuant to Section 1.20
- (vi) all other uses as outlined in this RFP and the Agreement.

1.8.2 Tenant may leave vehicles in the parking lot on the Leased Premises overnight if required for Tenant's business and with the Department's written approval.

1.8.3 Tenant shall agree to not use or allow or permit others to use the Leased Premises

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for any purpose or in any manner other than as expressly provided herein. No use or manner of use shall be implied from the purposes expressed herein. If Tenant uses or permits or allows others to use the Leased Premises for any purpose or in any manner other than as expressly provided herein without first obtaining the express written approval thereof by Department, such use shall constitute grounds for termination of the Agreement.

1.8.4 Tenant shall agree to, at its sole cost and expense, be solely responsible for the maintenance, management, operation, and security of the Leased Premises. Should Tenant fail to undertake or fail to continue to undertake the maintenance, operation, and security of the Leased Premises, Department reserves the right to terminate the Lease Agreement upon written notice to Tenant in accordance with Section 1.38 herein.

1.8.4.1.8.5 Department reserves the right, in its sole discretion, to install solar carports or solar panels within any paved portions of the Leased Premises. Department shall give tenant at least ninety (90) days' notice prior to the installation of the solar carports and/or panels. Any revenue generated from the installation of the solar carports and/or panels on paved areas of the Leased Premises shall be retained by Department. The solar carports and/or panels shall be maintained by Department at its sole cost and expense and shall remain the property of Department or its vendor(s) (if Department chooses to lease the solar panels). Department shall make its best good faith efforts to minimize any impacts to Tenant's operations during the installation, operation and maintenance of the solar carports and/or panels. Department shall provide Tenant with an abatement of rent for each full day that the installation period causes the Leased Premises to close. The abatement shall be calculated by Department and pro-rated by day.

1.9 CONDITION OF LEASED PREMISES

1.9.1 The Leased Premises are leased to and accepted by Tenant in their present condition and without representation or warranty of any kind by Department including, without limitation, any representations or warranty of fitness for a particular purpose.

1.9.2 Tenant shall agree to keep the Leased Premises in good order and shall comply with the requirements of federal and State authorities with respect thereto. Tenant has made a physical inspection of the Leased Premises and has found the same satisfactory for all purposes of the Agreement and shall provide all such labor, materials, supplies and equipment sufficient to operate and maintain the Leased Premises as herein provided.

1.10 RECORDS, MEETINGS, AND AUDIT

1.10.1 Tenant shall agree to maintain complete and adequate financial records that will allow Tenant to prepare financial statements in accordance with generally accepted accounting principles. Tenant shall agree to retain such records for at least six (6) years from the expiration or termination of this Lease Agreement. Such records shall be made available for audit during normal business hours by an authorized representative of Department to determine the adequacy

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of Tenant's financial management systems and internal control systems established to meet the terms and conditions of this Lease Agreement and that the financial statements are fairly presented in accordance with generally accepted accounting principles. The results of any audit by Department shall be final and binding on Tenant, including but not limited to Department's determinations with respect to revenue reporting and payment by Tenant.

1.10.2 Tenant shall agree to prepare and compile, or oversee the preparation and compilation of, and submit to Department a quarterly financial report itemizing the following, on a monthly basis:

(i) Financial Summary:

- a. Golf Course Revenue, including but not limited to:
 - i. Total number of rounds of golf broken down by type of fee (weekday, senior, weekend, etc.)
 - ii. green fees revenue broken down by type of fee
 - iii. rental revenue broken out by item (power carts, hand carts, golf clubs, etc.)
 - iv. pro-shop sales broken down by categories (golf balls, golf clubs, clothing, etc.)
 - v. revenue generated from golf lessons
 - vi. association and/or membership revenue (handicap fees, association fees, memberships etc.)
 - vii. driving range revenue broken out by number of baskets
 - viii. tournament revenue
 - ix. sales tax collected
- b. Inn (Restaurant/Bar, Halfway House, Mobile Food/Beverage Cart, Banquets/Events) Revenue, including but not limited to:
 - i. food sales broken down by area (restaurant, halfway house, mobile food/beverage cart, banquet/catering)
 - ii. beverage sales, broken down by alcoholic and non-alcoholic
 - iii. banquet/catering, special events
 - iv. sales tax collected
- c. Expenses, including but not limited to:
 - i. expenses associated with the Golf Course and Inn operations
 - ii. expenses associated with maintenance and repairs of the Leased Premises
 - iii. Improvements of the Leased Premises

(ii) Brief summary of:

- a. maintenance and repair performed by Tenant on the Leased Premises;

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- b. any Improvement projects initiated or completed by Tenant and a review on the progress of the projects
- c. any issues related to the operation of the Leased Premises
- d. sales and marketing efforts

1.10.3 Tenant shall, or on or before May 1st of each year, and on or before the May 1st after the Agreement has terminated, agree to provide Department with a annual financial statement “Annual Report” for each calendar year. Each Annual Report shall be signed, dated, and certified by Tenant, Tenant’s Bookkeeper or Accountant, and contain the following: Total Gross Revenue, New Jersey State Sales Tax, Operating Expenses and Net Profit from the Leased Premises operations for the prior calendar year ending December 31st. The “Total Gross Revenue” shall be defined to include all sales at the gross selling price of merchandise and items of every character sold in, upon, or through any part of the Leased Premises by Tenant, or any other person, firm, or corporation, including, but not limited to, all revenues and sales related to the operation of the Golf Course and Inn, and gross charges for all services to customers or patrons, including, but not limited to, food, beverages, non-alcoholic beverages, banquets/catering, greens fees, memberships, equipment rentals, lessons, camps, golf outings, and events performed by Tenant or any other person, firm or corporation, in, upon, or through any part of the Leased Premises, and shall include sales and charges for cash and credit regardless of whether or not the same is collected or uncollected, less only all proper credits for returned merchandise, merchandise exchanges and merchandise cancellations, allowances or discounts as well as any sales taxes collected by Tenant and remitted to taxing authorities with respect to each Lease Year.

1.10.4 Tenant, its contractors, and subcontractors, shall provide Department, through an authorized representative, reasonable access to and the right to examine all records, books, papers, or documents reasonably related to Tenant’s operation of any part of the Leased Premises and any project, services, and work being performed pursuant to any contract or subcontract. Proper facilities shall be furnished for access and inspection. Department has the right to request, and Tenant agrees to provide free of charge, all information and copies of all records.

1.10.5 Tenant shall agree to confer with Department and attend meetings with Department officials and other persons as reasonably requested by Department to discuss matters relating to the operation and management of the Leased Premises.

1.10.6 All data, technical information, materials gathered, originated, developed, prepared, used, or obtained in the performance of the Lease Agreement, including but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, records (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures, and documents, regardless of the state of completion, which are prepared for or are a result of the services required under the Lease Agreement, shall be and remain the property of Department and shall be delivered to Department upon thirty (30) days’ notice by Department.

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1.10.7 Any and all audits conducted by Tenant, the Department or the Department's authorized representative, shall be paid for solely by Tenant.

1.10.8 If any audit has been started but not completed or resolved prior to the expiration or termination of the Lease Agreement, Tenant continues to be subject to such audit until it is completed and resolved.

1.10.9 All cash, checks, credit card payments, etc. received by Tenant shall be deposited into a single bank account, maintained solely for the Leased Premises activities, through which all financial transactions (including but not limited to deposits, withdrawals, and purchases) must pass.

1.11 ALCOHOL LICENSE

1.11.1 The Tenant shall be allowed to secure an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control, for the service and consumption of alcoholic beverages for on-premise consumption on the Leased Premises. The property is State-owned land, therefore, the successful bidder must obtain the license from the New Jersey Division of Alcoholic Beverage Control and not from the local municipality. If the Tenant obtains an Annual State Permit from the NJ DABC, it will be required to directly provide the alcoholic beverage services at the restaurant, bar, halfway house, and during banquet/catering services. The Department will not permit the Tenant to subcontract, sublease or assign the alcoholic beverage services.

1.11.2 The Tenant shall also be allowed to secure an Annual State Permit from the NJ DABC, for the service of alcoholic beverages from a mobile food/beverage cart(s), and for selling alcoholic beverages to active golfers, throughout the golf course in accordance with the terms and conditions of the Annual State Permit. If the Tenant obtains an Annual State Permit from the NJ DABC, it will be required to directly provide the alcoholic beverage services at the mobile food/beverage cart. The Department will not permit the Tenant to subcontract, sublease or assign the alcoholic beverage services.

1.11.3 The Tenant shall agree to not allow customers and visitors to bring alcoholic beverages onto the Leased Premises.

1.11.4 Nothing in this Request for Proposal, the Agreement or any of the attachments hereto shall be construed as a guarantee that the successful bidder shall obtain an Annual State Permit from the NJ DABC. The successful bidder is still expected to perform under this Request for Proposal and the Agreement regardless of its ability to obtain an Annual State Permit. Failure to obtain a liquor license does not negate or void this Request for Proposal or the resulting Agreement in any way and the successful bidder shall be expected to perform under the Agreement.

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1.11.5 Consumption of alcoholic beverages on the Leased Premises provided by any entity other than the Tenant is prohibited and shall be a material breach of the Lease Agreement.

1.11.6 Prior to submission to the NJ DABC, Tenant must submit plans and obtain the Department's prior written approval of the facilities that will be utilized for the service and consumption of alcoholic beverages and food on the Leased Premises.

1.11.7 The Agreement is not contingent upon the successful bidder obtaining a liquor license. The appraisal that was completed for the Leased Premises prior to the issuance of this Request for Proposal valued the liquor license at \$24,000.00. The Department will reduce the annual Rent for the first year of the Lease Agreement by \$24,000 in the event that the Tenant is not able to, or chooses not to, obtain a liquor license in the first year of the Lease Agreement. However, to obtain the Rent reduction the Tenant shall be required to submit proof that the license application was denied or a certification that it does not intend to apply for the license in the first year of the Lease Agreement. If the Department grants the reduction, the 3% annual rent escalation shall be applied to the adjusted rent in the second and subsequent years of the Lease Agreement. However, if the Tenant is granted a liquor license, the Department will not abate the first year's Rent for the months during which the liquor license application is pending.

1.11.8 If the Department reduces the Rent due to the failure of the Tenant to obtain a liquor license in the first year of this Lease Agreement (whether by choice or through denial of a license application), and the Tenant obtains a liquor license later in the term of this Lease Agreement, the Department will increase the annual rent by \$24,000 plus a 3% annual increase (depending on in which year of this Lease Agreement the license is obtained).

1.12 FEES AND MEMBERSHIPS

1.12.1 All proposed fees for public admission to the Leased Premises, including greens fees, membership fees, or any other fees associated with access to and use of the Leased Premises shall be submitted to Department in writing and approved by Department in writing before such fees become effective. When submitting proposed fees to Department, Tenant shall be required to show that the proposed fees are comparable to fees charged by similar public golf courses, restaurant and bar providers within fifty (50) miles.

1.13 RESERVATIONS SYSTEMS AND TOURNAMENTS

1.13.1 All reservations systems and tournament procedures established by Tenant are subject to the review and approval of Department.

1.14 GIFT CERTIFICATES

1.14.1 Tenant will be required to honor outstanding gift certificates for the Golf Course and Inn that were sold by the prior operators. The Department will compensate the successful

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bidder for the face value of the certificate and for the rates that were in effect when the gift certificate was issued, through a rental abatement, upon documented proof that the gift certificate was redeemed.

1.14.2 Upon expiration or termination of the Lease Agreement, Tenant shall agree to remit payment to the Department of the total amount of unredeemed gift certificates it sold for the Leased Premises, and the deposits it received for golf outings and all events that will occur after expiration or termination of the Agreement. If the Tenant offers golf memberships ("Memberships") that extend beyond the expiration or termination of the Agreement, the Tenant shall compensate the Department for the pro-rata value of the membership fees upon expiration or termination of this Agreement.

1.15 SECURITY

1.15.1 Tenant shall, at Tenant's sole cost and expense, agree to be completely responsible for all security of the Leased Premises and all Improvements thereon. Tenant is also responsible for crowd control at the Leased Premises. Department has no obligation to Tenant for security of the Leased Premises and shall not be responsible to Tenant, its agents, servants, employees, visitors, contractors, subcontractors, or invitees (express or implied) for personal injury, death, and/or loss, damage or destruction of improvements, supplies, equipment or other personal property on the Leased Premises.

1.15.2 Tenant shall, upon the termination of the Lease Agreement, agree to return to the Department all keys either furnished to or otherwise procured by Tenant. In the event of the loss of any keys furnished by the Department, Tenant shall agree to pay to the Department the replacement cost thereof.

1.16 MAINTENANCE, REPAIR, AND UTILITIES

1.16.1 Tenant shall agree to be solely responsible for the maintenance and repair of the Leased Premises and all buildings, structures, equipment and improvements thereon, including structural repairs, the installation, maintenance and repair of all utility systems as outlined in Section 1.17, the cost of all utility services, and the irrigation system, including all of the equipment and components of the system, including sprinkler heads and pumps. Tenant shall agree to deliver the Leased Premises to Department upon expiration or termination of the Lease Agreement in at least as good condition as it was delivered at the commencement of the term.

1.16.2 Tenant shall agree to, at its sole cost and expense, keep and maintain the Leased Premises, including any improvements constructed or located thereon in good repair and condition and shall promptly make all structural, nonstructural, ordinary and extraordinary repairs of every kind which may be required to be made upon or in connection with the Leased Premises, and any improvements thereon to keep and maintain the Leased Premises in good repair and condition.

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1.16.3 Tenant shall agree to, at its sole cost and expense, keep and maintain the Leased Premises, including any improvements constructed or located thereon, clean, neat, and well maintained.

1.16.4 Tenant shall agree to be responsible, at its sole cost and expense for all snow and ice removal and salting/sanding of the Leased Premises, including all walkways, sidewalks and parking lots **but excluding the public recreational trail set forth in Subsection 1.16.12 that passes through the Leased Premises.**

1.16.5 Tenant shall agree to keep the Leased Premises free of trash and be responsible for the collection, disposal, and recycling of all garbage, rubbish, and other waste from the Leased Premises. Tenant shall agree to, at its sole cost and expense, install dumpster(s) on the Leased Premises, in an area approved in writing by Department. Trash removal from the dumpster(s) shall be at the Tenant's sole expense. Tenant shall agree to participate in and comply with all recycling programs in effect for the county and municipality in which the Leased Premises is located.

1.16.6 Tenant shall agree to be responsible, at its sole cost and expense for all landscaping of the Leased Premises. Tenant shall agree to not make or allow any physical change in the natural condition of the Leased Premises, including, but not limited to, the cutting or removal of trees or shrubs, without first submitting plans and specifications therefore to Department and obtaining Department's prior written approval thereof. Department's approval shall not relieve Tenant of its obligation to obtain and maintain all licenses, permits, and approvals required by the appropriate Federal and/or State governmental agency having jurisdiction over the activity to be undertaken.

1.16.7 Tenant shall agree to be responsible for any renovation and restoration of the Golf Course including but not limited to the greens, tees, fairways, bunkers and cart paths. The maintenance standards shall include programs and procedures that maintain a superior golf course experience as well as enhancing and protecting the environment and the Leased Premises. In addition, Tenant shall agree to comply with the turf cultivation and management practices established by the United States Golf Association for the Golf Course. Tenant shall agree to maintain the Golf Course turf for playing conditions. The Golf Course turf maintenance shall include, but not be limited to, the following: general cleanliness; landscaping; mowing/trimming; irrigation within the limits of the Water Use Registration issued for the Golf Course; fertilization; general erosion repairs; and other related tasks necessary to maintain acceptable playing conditions on the Golf Course. Tenant shall agree to maintain the Golf Course within the limits of the Water Use Registration issued for the Golf Course.

1.16.8 The Fire prevention and suppression at the restaurant/bar shall be Tenant's sole responsibility and expense and shall be coordinated with the Wall Township's Fire Marshall and/or the State Fire Marshall. Further, Tenant shall agree to obtain all Division of Fire Safety inspections, service and/or repair of the Ansul fire protection system after discharge or as required. A copy of the inspection report must be provided to the Department, upon request. Further, if the fire suppression system is discharged/activated or if any significant changes to the system are made, it

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must be upgraded by the Tenant according to the current Department of Community Affairs (DCA) Division of Fire Safety regulations in effect. A new Certificate of Approval must be obtained for the kitchen, from the DCA, Division of Fire Safety, after the installation and prior to use. All costs associated with any upgrades and/or changes described in this paragraph are the sole responsibility of the Tenant.

1.16.9 Tenant shall agree to be responsible, at its sole cost and expense for degreasing and deep cleaning of kitchen and exhaust hood at the restaurant/bar a minimum of twice per year. Tenant shall agree to service the exhaust systems, including the roof vent, on an annual basis and shall post a notice of said cleaning in the kitchen area, as provided by the cleaning service obtained. Tenant shall agree to provide a copy of the cleaning report to the Department, upon request.

1.16.10 Tenant shall agree to be responsible for pumping the septic and grease tanks at the Inn at least twice a year (during the months of April and October) and, Tenant shall agree to provide proof of completion of the pumping to the Department, upon request.

1.16.11 Tenant shall agree to be responsible for and shall ensure that all Golf Course and Inn patrons, sub-contractors/tenants, licensees, and permittees are satisfying all obligations to maintain, and repair areas occupied by them as required by any sub-contracting/leasing agreement or other applicable instrument.

1.16.12 There is a Department-owned public recreational trail that passes through the Leased Premises. Tenant shall agree to not block any Department-owned public recreational trail or prevent the public or Department from accessing the trails at any time. Tenant shall agree to be responsible for maintaining public access on the portion of the trail within the Leased Premises, as set forth in Exhibit A, which shall include clearing any down trees, limbs, brush etc. **The Tenant shall not be responsible for any snow and ice removal or salting and sanding the public recreational trail that passes through the Leased Premises.** The Department shall be responsible for all extraordinary maintenance, including filling potholes, repaving the trail etc.

1.17 UTILITIES

1.17.1 Bidders should consider what the costs may be to them for operating the facilities included under this RFP based on prior experience. Tenant shall agree to, at its sole cost and expense, install, maintain, repair, and replace all utility systems and pay for the cost of all new and/or existing utility services. Utilities shall include, but not be limited to all water, gas, propane, oil, heat/air conditioning, electric, sewer, septic, telephone and other communication services on the Leased Premises and as more specifically defined below:

(i) Water Usage:

- a. The Tenant shall agree to be responsible, at its sole cost and expense, for all water service on the Leased Premises.

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- b. The Golf Course has a Water Allocation Permit (#4035PS) issued by the Department, Bureau of Water Allocation. The permit allows for water diversion from the following sources:
 - i. Manasquan River 1200 gpm
 - ii. Storage Pond 1200 gpm

The total diversion from the above sources shall not exceed the permit terms: 9.63 million gallons per month at a maximum rate of 1200 gpm and the total diversion from the above sources shall not exceed 33 million gallons per year. The Tenant will be responsible for transferring the permit into their name and following specific and general conditions required for the operation of the Water Allocation Permit.

- c. The Tenant shall agree to be responsible for renewing or obtaining a new water allocation permit once the current permit expires. The Tenant shall agree to be responsible for the expense of all water permitting costs and fees, including those associated with the Water Allocation Permit.

(ii) Irrigation System:

- a. The Tenant shall agree to be responsible for the repair, maintenance and installation of all components for the irrigation system on the Golf Course.

(iii) Septic System:

- a. The Department's Water Compliance and Enforcement identified during this solicitation process that there is a two thousand (2,000) gallon septic tank associated with the Maintenance Building, a two thousand (2,000) gallon septic tank associated with the Pro-Shop and a disposal field on the Golf Course. The Golf Course has a T1-Sanitary Subsurface Disposal General Permit (#NJ0130281) which may not currently cover the entire septic system on the Leased Premises, including the tanks associated with the Inn operations. The Tenant will be responsible for revising the permit to include the entire septic system on the Leased Premises, if necessary, and transferring the permit into their name and following specific and general conditions of the permit. The Tenant shall agree to be responsible for renewing or obtaining a new permit once the current permit expires. The Tenant shall agree to be responsible for the expense of all permitting costs and fees, including those associated with the T1-Sanitary Subsurface Disposal General Permit.
- b. There are two (2) one-two (21,000) thousand-gallon underground septic and grease tanks connected to the restaurant/bar located on the back side of the restaurant/bar.

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The Tenant shall agree to pump out the septic and grease tanks and clean out the grease traps at least a minimum of twice per year (during the months of April and October), or more often if necessary, at the Tenant's sole expense. In addition, the Tenant shall agree to add enzymes as necessary to ensure the health of the septic system. The Tenant is solely responsible to maintain and repair the septic system at Tenant's sole expense.

(iv) Electricity:

- a. Tenant shall agree to be responsible, at its sole cost and expense, for all existing and future electric service for the Leased Premises.

(v) Gas, propane, oil and heat/air conditioning:

- a. Tenant shall agree to be responsible for all gas, propane, oil and heating/air conditioning services on Leased Premises. There is no public natural gas at the Leased Premises. The Tenant may, at its sole cost and expense, request Department-written approval to install natural gas on the Leased Premises.

(vi) Telephone and other Communication Services:

- a. Tenant shall agree to be responsible for all telephone, cellular, internet, or other communications service(s) and obtaining telephone(s), computer(s) and other equipment at the Tenant's sole expense for the Leased Premises.

The Department shall not be liable to the Tenant in damages or otherwise:

- (i) if any utility shall become unavailable from any public utility company, public authority, or any other such person or entity (including the Department) supplying or distributing such utility; or
- (ii) for any interruption in any utility service (including without limitation, any water and septic systems) caused by the making of any necessary repairs or Improvements or by any cause beyond the Department's reasonable control, and the same shall not constitute a termination of this Lease Agreement.

1.18 WILD GEESE POPULATION MANAGEMENT

1.18.1 The Department authorizes the Tenant to manage the population of Canada Geese on the Golf Course in accordance with federal and state regulation and guidelines set forth in the State Park Service's Goose Management Program. Management activities shall include adding eggs and removing and destroying nests. A copy of the State Park Service's policy is attached and

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incorporated by reference as Exhibit D.

1.19 EQUIPMENT

1.19.1 The list of Department-owned Golf Course and Inn equipment set forth in Exhibit E will be available for use by the Tenant. The equipment is provided in “as is” condition. In the event that the Tenant does not want to use any of the Department-owned equipment, the Tenant may request Department-written approval to dispose of such equipment in accordance with Department guidelines and procedures. The Tenant shall be responsible for such disposal costs, at its sole cost and expense. The Tenant’s ability to operate the Golf Course and Inn shall not be limited by the Department’s current available inventory of Golf Course and Inn equipment set forth in Exhibit E. The Tenant shall agree to be responsible for providing and maintaining all supplies, goods, equipment and golf carts necessary for the successful management and operation of the Leased Premises.

1.19.2 The Golf Course and Inn equipment set forth in Exhibit E shall remain the property of the Department. The Department offers the Tenant use of this equipment “as is” and without representation or warranty of any kind by Department including, without limitation, any representations or warranty of fitness for a particular purpose. The Tenant and the Department shall meet prior to Effective Date of the Lease Agreement to inspect and record condition of Department’s equipment. The Tenant and Department shall meet within six months prior to the end date of the Lease Agreement or subsequent renewal of the Lease Agreement to inspect and record condition of Department’s equipment. The Tenant shall agree to be solely responsible for the cost of repairing, maintaining and replacing any of the Golf Course and Inn equipment and shall return the equipment to the Department at the end of the Lease Agreement in the same condition as noted at the beginning of the Lease Agreement, reasonable wear and tear excepted. The Tenant shall agree to not lend or rent out the Department’s Golf Course or Inn Equipment and shall obtain the Department’s approval before disposing of any equipment. New equipment purchased by the Tenant shall remain the property of the Tenant, unless they are attached to and/or physically incorporated into the Leased Premises.

1.19.3 Tenant shall agree to be responsible for providing and maintaining all equipment and golf carts necessary for the successful management and operation of the Licensed Premises. Department acknowledges that Tenant may in the ordinary course of its business possibly enter into leases for equipment used for the operation of Tenant’s business at the Leased Premises. Tenant shall agree to provide Department with at least five (5) business days prior written notice of the material terms and conditions of any such equipment leases prior to entering into same.

1.20 SALE OF PRODUCTS - PRO SHOP

1.20.1 Tenant may operate a Pro Shop for the Golf Course on the Leased Premises. Sales at the shop may include, but are not limited to, merchandise, golf equipment, cart rentals, and equipment rentals. Tenant shall agree to submit a written list of items and prices for all

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merchandise, golf equipment, cart rentals, and equipment rentals for approval, in writing, by Department prior to sale. The products offered for sale shall be consistent with the nature and character of the Leased Premises.

1.21 RENOVATIONS AND IMPROVEMENTS

1.21.1 Bidders should list and explain any Improvements the bidder would like to make to the Leased Premises as a part of the bidder's proposal. Included should be the timeframe to initiate and complete the proposed Improvement.

1.21.2 Tenant may, at Tenant's sole cost and expense and with the prior written approval of Department, undertake preservation, restoration, rehabilitation, reconstruction, renovation, and Improvement projects ("Work") within the Leased Premises.

1.21.3 Tenant shall agree to not enter any contract for or commence any Work, including the construction or placement of any temporary or permanent building or structure or any change in the natural condition of the Leased Premises (collectively "Improvements"), without first submitting design plans and specifications therefor to and obtaining the written approval thereof from Department. The design plans and specifications shall include, but not be limited to, the preliminary drawings, outline specifications, materials, measurements and dimensions, including site plans, floor plans, elevations, and cross sections, and any and all reports upon which Tenant has depended for the design plans and specifications, which establish the intent, scope, and character of the proposed Work. The final design plans and specifications which are submitted for approval to Department must be signed and approved by a licensed architect or a professional engineer. Approval by Department shall be granted provided that Department determines that the proposed Work is consistent with the Agreement.

1.21.4 Approval by Department of design plans and specifications submitted by Tenant in accordance with the Agreement shall not in any way relieve Tenant of responsibility for the technical accuracy thereof. Tenant is responsible for the professional quality, technical accuracy, timely completion, and coordination of all design plans and specifications furnished under the Agreement. Tenant shall agree to, at its sole cost and expense, correct or revise any errors, omissions, or other deficiencies in its design plans and specifications. Approval or acceptance thereof by Department shall not be construed as a waiver of any rights of Department under the Agreement or any cause for action arising out of the performance of the Agreement.

1.21.5 Department reserves the right to approve the location and type of structure for any Work and to require that Work be constructed or placed in such a manner that they may be removed with minimum damage to the Leased Premises.

1.21.6 Tenant shall agree to, prior to the commencement of any Work, apply to all governmental authorities having jurisdiction over the Leased Premises and the work to be performed for building and other permits, licenses, and approvals required for construction of the

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proposed Work. Prior to commencement of construction, Tenant shall agree to provide Department with satisfactory written evidence that Tenant has obtained all required building and other permits, licenses, and approvals. Upon the issuance of all required building and other permits, licenses, and approvals, Tenant shall agree to commence and diligently prosecute the Work by one or more general contractors and/or subcontractors. All construction shall be done in a good and workmanlike manner, in accordance with the approved design plans and specifications and requisite building and other permits, licenses, and approvals, and other requirements of governmental authorities having jurisdiction including, but not limited to, all federal and State laws and rules applicable to the Leased Premises.

1.21.7 Tenant may enter into contracts for the performance of construction of Work provided that in no such event shall Department's obligations under the Agreement be deemed to be diminished thereby. Nothing contained in the contract shall be construed as creating any contractual relationship between any contractor and subcontractor and Department.

1.21.8 Tenant shall agree to, at its sole cost and expense, provide all necessary construction management for each Work including, but not limited to, project layout, conducting project meetings, preparing project meeting minutes, inspecting the project, maintaining records and accounting, and making contractor payments. Department may, at its sole cost and expense, monitor Tenant's construction management. Prior to the commencement of construction, Tenant shall agree to deliver to Department certificates of insurance showing that Tenant and/or its contractors and subcontractors have obtained insurance coverage during the period of construction in accordance with the requirements set forth in Section 1.32.

1.21.9 All Improvements undertaken or made without Department's written approval and/or for which Tenant cannot document to the satisfaction of Department that the Improvement was completed in accordance with all requirements and permits of governmental authorities having jurisdiction shall be removed by Tenant, at Tenant's sole cost and expense, upon Department's demand. Tenant shall agree to, at Tenant's sole cost and expense, repair any damage to the Leased Premises and/or Park caused by Tenant's construction and/or removal of any such Improvement.

1.21.10 Tenant shall agree to be and remain liable in accordance with applicable law for all damages caused by Tenant's construction of any Improvement.

1.22 TITLE TO IMPROVEMENTS AND CERTIFICATION OF COMPLETION

1.22.1 All Improvements constructed or installed by Tenant on the Leased Premises and all restored fabric including but not limited to woodwork, hardware and fixtures shall, upon completion in accordance with the approved plans therefor and the requirements of public authorities having jurisdiction thereof, become the property of Department as part of the Leased Premises without compensation to Tenant.

1.22.2 Upon completion of any Improvement project, Tenant shall agree to, as a condition

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precedent to Department's acceptance thereof and Tenant's use and operation thereof as part of the Leased Premises, deliver to Department: (i) copies of such permanent certificates of occupancy as shall be necessary for the use and occupancy thereof; (ii) copies of final and complete waiver by Tenant's general contractor and its subcontractors of their rights to file or assert a mechanic's lien against any part of the Leased Premises or any work performed; and (iii) one complete set of reproducible "as-built" or record drawings of the Improvement.

1.23 STAFF

1.23.1 Tenant shall agree to engage a sufficient number of reliable, competent, and qualified staff of legal age for operation and management of the Leased Premises, to provide security for the Leased Premises and to meet the needs of the public. Tenant shall agree to submit a staffing plan to Department and obtain Department's written approval thereof. If Department determines that Tenant has not provided a sufficient number of reliable, competent, and qualified staff of legal age for the operation and management of a Leased Premises covered by this Lease Agreement, Tenant shall agree to, immediately upon receipt of written notification from Department, correct the staffing deficiencies described in said notice.

1.23.2 If it becomes necessary for Tenant to change any management or supervisory staff ("key personnel"), Tenant shall agree to notify the Department of the change and identify the individual, provided all contact information and the work to be performed. Resumes must be submitted evidencing that the individual proposed has the qualifications and experience.

1.24 COMPLIANCE WITH LAWS, LICENSES, PERMITS, AND INSURANCE POLICIES

1.24.1 For the Term of the Agreement, Tenant shall agree to obtain, pay for, maintain, and comply with all licenses, permits, certifications, authorizations, approvals, or any other documents required by all applicable government agency having jurisdiction over the Leased Premises or the conduct of Tenant's operations thereon. Tenant shall agree to provide Department with written evidence that such applicable licenses, permits, authorizations, or other required documents have been obtained prior to commencement of Tenant's use of the Leased Premises.

1.24.2 Tenant shall agree to, at its sole cost and expense, comply with all duly promulgated and applicable federal and State statutes, laws, rules, ordinances, regulations, and orders affecting the conduct of the Agreement described in the Lease Agreement including, but not limited to, any laws and regulations pertaining to pesticide storage and application.

1.24.3 Tenant shall agree to comply with the requirements of all insurance policies required by the Agreement.

1.24.4 If Tenant:

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(i) receives a notice of failure to comply with the insurance required by the Agreement;

(ii) is issued a summons or any notice of violation of any license, permit, certification, authorization, approval, or any similar instruments required by any governmental authority having jurisdiction necessary to maintain and operate the Agreement in accordance with the provisions of this Lease Agreement; or

(iii) is issued a summons for violation of any duly promulgated and applicable federal, State, county, municipal, and other governmental statutes, laws, rules, ordinances, regulations, or orders affecting the Lease or any part thereof,

1.24.5 Tenant shall agree to immediately forward a copy of the notice of non-compliance, summons, or notice of violation to Department, and Tenant shall have such amount of time to correct said violation as is prescribed in the notice or summons. If such violation is not cured within the prescribed period or any extension thereof, it shall be deemed a material breach of the Agreement, and Department may suspend Tenant's operation of all or the affected portion of the Leased Premises in accordance with the terms and conditions set forth in Section 1.37, and/or terminate the Agreement in accordance with the terms and conditions set forth in Section 1.38.

1.24.6 Tenant shall agree to indemnify Department against all liabilities, claims, losses, damages, costs, expenses (including all attorneys' fees and expenses), causes of action, suits, demands, judgments, or payments of any kind arising from Tenant's failure or omission to comply with any such insurance policy, license, permit, certification, authorization, approval, or any applicable federal or State statute, law, rule, ordinance, regulation, or order.

1.25 TAXES AND ASSESSMENTS

1.25.1 All taxes and property tax assessments, if any, arising out of the use and operation of the Leased Premises for the Initial and any Renewal term shall be the sole responsibility of Tenant and shall be promptly paid by Tenant when due, regardless of whether such tax or assessment is assessed during, before or after a Term of the Agreement. Tenant shall agree to provide copies of the notice of any tax and assessment notice received from any government agency, municipality or county to the Department. Payment shall remain a continuing obligation of Tenant after any Term of the Agreement and/or the expiration or termination of the Agreement, and Department is authorized to make a demand for payment and take any and all steps to ensure payment. Tenant shall agree to furnish to Department within ten (10) days of demand therefor, proof of the payment of any such tax or assessment. Tenant's failure to timely pay any tax or assessment or otherwise comply constitutes a material breach of the Agreement subject to Default in accordance with the terms and conditions of the Agreement.

1.26 PEACEFUL ENJOYMENT

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1.26.1 Department agrees that Tenant, on performing the covenants contained herein, shall peaceably and quietly have, hold, and enjoy the Leased Premises for the above-stated Term.

1.27 EMERGENCY CLOSURE, DEPARTMENT'S ACCESS TO LEASED PREMISES-RIGHT OF INSPECTION, REPAIR AND ALTERATION

1.27.1 Access to the Leased Premises may be restricted during the normal Atlantic Hurricane season of June 1 through November 30, as storms may force the closure of a portion or all of the Leased Premises. In addition, the Leased Premises may be closed due to other State Emergencies. If any part of or all of the Leased Premises is closed, whether for a State Emergency or storm, or for any other reason, including a State Shut-Down, the Department is not responsible for any damages resulting from such closures or for any storm damage to Tenant's personal property. The Department is not responsible for ensuring the roads are passable or open to the Tenant. The Department is not responsible for damages resulting from reductions or disruptions of utilities (electric, water, wastewater, etc.) due to weather, vandalism, terrorism, or similar exigent circumstances.

1.27.2 Tenant shall agree to permit the Department and its agents to enter the Leased Premises at reasonable times and as the Department deems necessary or desirable to inspect and to perform other services to maintain the Leased Premises. In addition, Tenant shall agree to permit the Department and its agents to enter the Leased Premises to make repairs or improvements in, to, on, or about the Leased Premises. Notice is not required in the case of an emergency. Tenant shall agree to have no claim or cause of action against the Department because of entry for the reasons articulated in this Section.

1.27.3 Department shall, in accordance with the nature and extent of the activities to be undertaken as part of its access, exercise its rights in a manner intended to avoid or minimize damage to Tenant's property and to avoid unreasonable interference with Tenant's activities and except for emergency circumstances, Department shall endeavor to provide at least forty-eight (48) hours' notice to Tenant prior to entering upon the Leased Premises.

1.28 SIGNAGE, ADVERTISING, AND NEWS RELEASES

1.28.1 Tenant shall agree to not post or allow any signs or advertisements of any description to be painted or posted on the Leased Premises, any of the buildings or structures on the Leased Premises, and/or on any other property or improvement comprising part of the State Park, unless specifically approved by Department in writing. Tenant shall agree to not use Department's/State's name, logos, images, or any data or results arising from the Lease Agreement as part of any commercial advertising without first obtaining the written consent of Department. Tenant shall not be permitted to change or profit from the name of the golf course by, for example, selling or licensing naming rights to the Leased Premises. Tenant shall agree to not change the name of the Leased Premises without the prior written consent of Department. Tenant shall not issue news releases pertaining to any aspect of the services being provided under the Lease

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Agreement without the prior written consent of Department.

1.29 DAMAGE TO LEASED PREMISES

1.29.1 In the event of damage or destruction of the Leased Premises and/or any Improvement located thereon, in whole or in part, by fire, explosion, vandalism, the elements (including floods) or otherwise, or damage caused by Tenant, its contractors, agents, servants, employees, invitees express or implied, or trespassers which either Department or Tenant reasonably determine materially affects Tenant's use and occupancy of the Leased Premises for the purposes herein provided, either Department or Tenant may terminate the Agreement in accordance with Section 1.38. Department shall not be liable to Tenant or any person claiming by or through Tenant for any loss occasioned by the damage or destruction of the Leased Premises and/or any Improvements located thereon and Department's termination of this Lease.

1.29.2 In the event of damage or destruction of the Leased Premises and/or any Improvement located thereon by fire, explosion, vandalism, the elements (including floods) or otherwise during the Term of the Agreement or damage caused by Tenant, Tenant's contractors, agents, servants, employees, invitees express or implied, or trespassers which Department and Tenant reasonably determine does not materially affect Tenant's use and occupancy of the Leased Premises for the purposes herein provided, Tenant shall agree to, at Tenant's sole cost and expense, promptly repair all such damage to the Leased Premises and/or Improvements located thereon. If Tenant fails to make the repair after written demand therefor by Department and within the period prescribed by Department in said written demand, Department shall terminate the Agreement in accordance with Section 1.38.

1.29.3 All repairs by Tenant of damage to any State-owned property or Improvement, the Leased Premises and/or Improvements located thereon shall be completed in accordance with plans and specifications submitted to and approved by the Department and in accordance with the provisions of Section 1.21.

1.30 DEVELOPMENT OF STATE PARK

1.30.1 Any other provision herein contained to the contrary notwithstanding, in the event that Department gives Tenant written notice that Department requires all or any part of the Leased Premises for development or use for any public purpose, Tenant shall agree to, within the period set forth in said notice and without any compensation therefore by Department to Tenant, abandon use of the Leased Premises or part thereof designated by Department within the notice period.

1.31 INDEMNIFICATION

1.31.1 Tenant shall agree to, for itself, and any and all sub-contractors/tenants and for Tenant's successors, and assigns, assume all risks and liabilities arising out of Tenant's use, operation, maintenance, and improvement of the Leased Premises. Tenant covenants to defend, protect,

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indemnify, and save harmless the Department and hereby releases the Department and each of its officers, agents, employees, successors, and assignees from and against any and all such liabilities, losses, damages, costs, expenses (including reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of every nature arising from or claimed to arise, in whole or in part, in any manner out of, be occasioned by, or result from:

- (i) any injury to, or the death of, any person caused in whole or in part by any negligent act or omission of Tenant, or anyone directly or indirectly employed by [it], regardless of whether it is caused in part by the Department, or its officers, agents, servants, employees, successors, and assignees;
- (ii) any injury to, or the death of, any person in, on, or about, or any damage to property which occurs in, on, or about the Leased Premises or upon any sidewalk, walkway, or patio within the Leased Premises or in any manner growing out of or connected with the use, non-use, or condition of the Leased Premises, or the construction or repair of any improvements of the Leased Premises;
- (iii) any act, error, or omission of Tenant, Tenant's officers, agents, servants, employees, contractors, invitees, and anyone claiming by or through Tenant in the performance of the Agreement;
- (iv) violation of any agreement or condition of the Agreement by Tenant, Tenant's officers, agents, servants, employees, contractors, invitees, and anyone claiming by or through Tenant in the performance of the Agreement; and
- (v) violation by Tenant, its officers, agents, servants, employees, contractors, invitees, and anyone claiming by or through Tenant in the performance of the Agreement of any contracts and agreements of record concerning the Leased Premises and restrictions of record or any law, ordinance, or regulation affecting the Leased Premises or any part thereof or the ownership, occupancy, or use thereof.

1.31.2 The Department and Tenant shall agree to, as soon as practicable after a claim has been made against either of them, give written notice thereof to the other, along with full and complete particulars of the claim. If the suit is brought against the Department, Tenant, or any of their agents, servants, or employees, it shall expeditiously forward or have forwarded to the other every demand, complaint, notice, summons, pleading, or other process received by or then in its possession or the possession of its representatives.

1.31.3 It is expressly agreed and understood that any approval by Department of Tenant's operation of the Leased Premises shall not operate to limit the obligations of Tenant assumed pursuant to the Agreement.

1.31.4 Tenant's liability pursuant to this Paragraph shall continue after the termination or

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expiration of this Lease Agreement with regard to causes of action arising or claimed to arise prior to the termination or expiration hereof and/or obligations of Tenant under this Lease Agreement that survive such termination or expiration.

1.31.5 This indemnification is not limited by, but is in addition to, the insurance obligations contained in this Lease Agreement.

1.31.6 The provisions of this indemnification clause shall in no way limit the obligations assumed by Tenant under this Lease Agreement, nor shall they be construed to relieve Tenant from any liability or to preclude the Department from taking any other actions available to it under any provisions of this Lease Agreement or at law or in equity.

1.31.7 All claims asserted against the Department by the Tenant shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. Nothing in this Lease Agreement shall be construed as a waiver by the Department of any warranty, express or implied, or of any remedy at law or in equity.

1.31.8 Any claim against the Department relating to a final decision by the Commissioner regarding contract award rescission, contract interpretation, contractor performance and/or contract reduction, suspension or termination shall not accrue, and the time period for performing any act required by N.J.S.A. 59:8-8 or 59:13-5 shall not commence, until a decision is rendered by the Superior Court of New Jersey, Appellate Division (or by the Supreme Court of New Jersey, if appealed) that such final decision by the Commissioner was improper.

1.32 INSURANCE

1.32.1 Tenant shall agree to, at its sole cost and expense, obtain and maintain at all times during the Term of this Lease Agreement, insurance on the Leased Premises, and any Improvements thereon for damages imposed by law and assumed under this Lease, of the types and in the amounts hereinafter provided:

- (i) Commercial General Liability policy (including insurance with respect to owned or operated motor vehicles) as broad as that provided by the standard basic, unamended, and unendorsed occurrence coverage forms currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage. The policy shall include an endorsement (broad form) for contractual liability. Limits of liability shall be maintained at the level of One Million (\$1,000,000) Dollars per occurrence for bodily injury and property damage and a Two Million (\$2,000,000) Dollars annual aggregate. This can be accomplished with a combination of Commercial General Liability and Commercial Umbrella policies;
- (ii) Property insurance to cover loss or damage on a "Special Causes of Loss" form of coverage against fire, water, wind, storm, loss, theft, and damage on any structures on

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the Leased Premises and all fixtures, equipment, and other property attached thereto and/or physically incorporated therein and the contents owned by Tenant and located in or on the Leased Premises. Said insurance shall be in an amount not less than the full value of such structures, fixtures, equipment, property, and contents. The value of said structures, fixtures, equipment, property, and contents shall be determined by Tenant using whatever procedures Tenant considers appropriate. Said policy shall be written so as to provide that the insurer waives all right of subrogation against Department in connection with any loss or damage covered by the policy;

- (iii) Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employer's Liability Insurance with limits of not less than One Million (\$1,000,000) Dollars Bodily Injury By Accident (Each Accident) and One Million (\$1,000,000) Dollars Bodily Injury By Disease (Each Employee) with an aggregate limit of One Million (\$1,000,000) Dollars Bodily Injury By Disease (Policy Limit);
- (iv) Business Auto Liability insurance, which shall be written to cover any automobile or trailer used by Tenant, with minimum limits of liability to cover bodily injury and property damage of not less than One Million (\$1,000,000) Dollars per person or per accident. Coverage must include hired and non-owned vehicles. A MCS-90 certificate shall be filed with the State of New Jersey if hazardous materials or waste will be transported in the course of the Lease Agreement; and
- (v) Such other insurance and in such amounts as may from time to time be reasonably required by the Department.
- (vi) If Tenant is issued a liquor license by the New Jersey Division of Alcohol Beverage Control, Tenant shall agree to procure such insurance, with the Department as an additional insured, that shall include but not be limited to the sale and service of alcohol.

1.32.2 All insurance coverage required to be maintained by Tenant in accordance with the Agreement shall be issued by an insurance company with an A-VIII or better rating by A.M. Best & Company authorized and approved to do business in New Jersey. All policies except for Worker's Compensation shall name the **"State of New Jersey, Department of Environmental Protection LE24-001"** as additional insureds and include the blanket additional insured endorsement or its equivalent. The certificate(s) of insurance shall identify the Agreement Number assigned to the Agreement and the location(s) of the Leased Premises in the Description of Operations box and shall list the State of New Jersey, Department of Environmental Protection, Office of Transactions and Public Land Administration, Public Land Administration Section, P.O. Box 420, Mail Code: 401-07, Trenton, New Jersey 08625-0420, in the Certificate Holder box.

1.32.3 When Tenant returns the Agreement or any subsequent Renewal Agreement, signed by Tenant, to Department for signature, Tenant shall agree to provide Department with all

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current and valid certificate(s) of insurance evidencing that Tenant has obtained all insurance coverage in accordance with the Agreement. A copy of the certificate of insurance shall be attached to the Lease as an Exhibit. Failure to provide a certificate(s) of insurance at the time of Tenant's return of the Agreement or any subsequent Renewal Agreement shall result in the non-execution of the Agreement or subsequent Renewal Agreement by Department, as applicable. Tenant also shall provide Department with a valid certificate(s) of renewal of the insurance within thirty (30) calendar days of the expiration of the policies so that Department is continuously in possession of current documentation that Tenant has obtained and is maintaining, in full force and effect, all insurance required under the Agreement. Tenant also shall, upon request, provide Department with copies of each policy required under the Agreement, certified by the agency or underwriter to be true copies of the policies provided by Tenant.

1.32.4 Tenant expressly understands and agrees that any insurance protection required by this Lease Agreement shall in no way limit Tenant's indemnification obligations assumed in this Lease Agreement and shall not be construed to relieve Tenant from liability in excess of such coverage, nor shall it preclude the Department from taking such other actions as are available to it under any provision of this Lease Agreement and as otherwise provided for at law or in equity.

1.32.5 In the event that (i) Tenant fails or refuses to renew any of its insurance policies or to provide the Department with timely certificates of insurance showing that Tenant is maintaining insurance coverage in full force and effect to the extent required by this Lease Agreement or (ii) any policy is canceled, terminated, or modified so that the insurance does not meet the requirements of this Lease Agreement, the Department shall consider Tenant to be in default and terminate this Lease Agreement under Section 1.38.

1.32.6 The limits of insurance policies described in this Paragraph shall be reviewed by the Department and Tenant every two (2) years. Tenant shall agree to increase the limits of said policies to meet changed circumstances including, but not limited to, changes in the United States Consumer Price Index and changes indicated by the course of plaintiffs' verdicts in personal injury actions.

1.32.7 Tenant shall agree to require any person or organization providing any service and/or conducting any activity on the Leased Premises as part of Tenant's use and occupancy thereof to secure and maintain in force at all times during the provision of any service and/or conduct of any activity thereon as part of Tenant's use and occupancy of the Leased Premises, insurance coverage of the types and in at least the minimum amounts required under Subsection 1.32.1 and the requirements of Subsection 1.32.2.

1.33 ASSIGNMENT

1.33.1 Tenant shall agree to not assign or transfer the Lease Agreement, or Tenant's responsibilities under the Lease Agreement or the operations authorized hereunder, nor sell or otherwise assign or transfer a controlling interest in such operations (hereinafter collectively referred

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to as an "Assignment") without the prior written approval of Department.

1.34 SUB-TENANTS AND SUB-CONTRACTING

1.34.1 Tenant shall agree to not enter into any sub-leasing or sub-contractor agreements with outside entities for the performance of any of its obligations under this Lease Agreement, except that Tenant may request Department-written approval to enter into sub-leasing and sub-contractor agreements with outside entities for the operation of a Pro Shop, Professional Golf Lessons, and the maintenance and Improvement of the Leased Premises including: landscaping, aeration, topdressing and amending; irrigation; cart maintenance; and improvement projects. In addition, with the Department's written approval, Tenant may sublease and or subcontract the restaurant/bar/mobile food and beverage cart(s) or banquet/catering operations provided Tenant has **not** obtained an Annual State Permit License from the Division of Alcoholic Beverage Control or a specific sub-contracted event does not involve the serving or sale of alcoholic beverages, with the prior written approval of Department. If the Bidder proposes to utilize a sub-tenant or sub-contractor to fulfill any of its obligations with respect to the Pro Shop, Professional Golf Lessons, maintenance and Improvement of the Leased Premises, the Bidder shall be responsible for each sub-tenant's and sub-contractor's performance, compliance with all terms and conditions of this RFP and the Lease Agreement, and compliance with the requirements of all applicable laws. Before the Tenant may allow a sub-tenant or sub-contractor to begin to operate or use the Leased Premises in such a way, both the Tenant and sub-tenant/contractor must sign a sub-leasing/contracting agreement, which shall be subject to the Department's written approval prior to taking effect. In no event will Department and any sub-tenant or sub-contractor have any contractual relationship by virtue of the sub-tenant's or sub-contractor's relationship to Tenant. During the Term of this Lease Agreement, Tenant shall agree to indemnify and hold harmless Department and assume all responsibility for all acts/omissions of any sub-tenant and sub-contractor and for its compliance with respective sub-leasing and sub-contracting agreement.

1.34.2 The Bidder must provide a detailed description of the services to be provided by each proposed sub-tenant. The Bidder further should provide a detailed resume for each sub-tenant's management, supervisory, and other key personnel that demonstrates knowledge, ability, and experience relevant to the work the sub-tenant has been designated to perform.

1.34.3 The Bidder should provide documented experience to demonstrate that each sub-tenant successfully has performed work on projects of similar size and scope to the work the sub-tenant has been designated to perform in the Bidder's proposal.

1.34.4 Notwithstanding any subletting, Tenant shall at all times remain fully responsible and liable for the payment of any Rent herein specified and for compliance with all of Tenant's other obligations under the Agreement. Any sub-lease executed without first obtaining the written approval thereof by Department shall be null and void and shall constitute grounds for termination of this Lease.

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1.35 BANKRUPTCY

1.35.1 In the event Tenant enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Tenant agrees to furnish written notification of the bankruptcy to Department with a copy to the Attorney General's Office. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include a complete copy of all pleadings filed in connection with the initiation of the bankruptcy proceedings, the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and the name(s), addresses, and telephone numbers of the attorney or firm handling the bankruptcy. The obligation to report entering into any such proceedings remains in effect until final payment is made under this Lease Agreement. The Department shall have the right to terminate this Lease Agreement immediately upon receipt of a notice of bankruptcy by providing written notice to Tenant.

1.36 REPORT OF INJURY

1.36.1 Tenant agrees that any injury which shall occur to Tenant, its servants, agents, or invitees express or implied, requiring medical intervention of which Tenant shall be notified, shall be reported to Department immediately by calling 1-877-WARN DEP (1-877-927-6337) and in writing within twenty-four (24) hours of the incident to the address as listed in Section 1.46.

1.37 SUSPENSION OF OPERATIONS

1.37.1 Tenant shall at the direction of Department, agree to immediately suspend, delay or interrupt all or any part of its activities on the Leased Premises for such period of time as Department may determine to be appropriate to protect the Leased Premises, Park and/or public health, safety, and welfare due to the occurrence of hazardous work conditions, emergency conditions, and/or any other cause including, but not limited to, Tenant's failure to perform any of the covenants, agreements, and conditions contained in the Agreement on its part to be performed. Tenant hereby waives any claim, and Department shall not be liable to any party claiming through Tenant, for damages, payment abatement, or compensation as a result of Department's actions under this Paragraph or the Agreement. Department's suspension of Tenant's use of the Leased Premises shall be in addition to any other right or remedy available by law or in equity.

1.38 TERMINATION

1.38.1 Tenant shall agree to comply with the terms and conditions of the Agreement. Failure to comply and/or the existence of any circumstance which Department determines to be in violation of the terms and conditions hereof shall be a material breach, which shall authorize Department to, terminate the Agreement as follows (except where another method of termination is expressly prescribed elsewhere in the Agreement) in addition to exercising any other right or remedy provided for by law or in equity:

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(i) In the event of Tenant's failure to either: (a) maintain any of the insurance policies to the extent required under the Agreement or provide Department with valid certificates of renewal of insurance upon expiration of the policies; or (b) pay when due any Rent, Additional Rent, taxes, or other sums required to be paid by Tenant hereunder, termination shall, in the discretion of Department, become effective ten (10) days after Tenant's receipt of written notice of such failure served by Certified Mail Return Receipt Requested if such failure is not cured, beforehand; and

(ii) If Tenant's fails to perform and/or comply with any of the other covenants, agreements, and/or conditions herein contained. Upon receipt of a written notice of termination for violation served by Certified Mail, Return Receipt Requested, Tenant shall have thirty (30) days to begin to cure such violation as Department shall describe therein and an additional thirty (30) days to substantially cure such violation. If Tenant has not begun to cure such violation by the end of the first thirty (30) days, termination shall, in the discretion of Department, be effective at the conclusion of such thirty (30) day period. If Tenant has begun to cure such violation within the first thirty days but does not substantially cure it within said sixty (60) day period, termination shall, in the discretion of Department, be effective at the conclusion thereof. In the event that the conditions which give rise to the default are of such nature that they cannot reasonably be remedied within the notice period, then such default shall not be deemed to continue so long as Tenant, after receiving such notice, proceeds to remedy the default as soon as is reasonably possible within the notice period and continues diligently to take all steps necessary to complete such remedy within a reasonable period of time.

1.38.2 If Department fails to cure any material default of Department of which it has been notified by Tenant in writing within the time reasonably required to cure such default, Tenant shall have the right to terminate the Agreement, upon sixty (60) days' written notice of Tenant's intention to terminate hereunder, which right shall be in addition to any and all other remedies available to Tenant.

1.38.3 Notwithstanding Department's compliance with all terms and conditions herein, Tenant shall have the right to terminate the Agreement upon ninety (90) days' written notice served upon Department by Certified Mail, Return Receipt Requested. Said notice shall include a comprehensive explanation and justification of Tenant's reasons for not continuing operations under the Agreement. Within forty-five (45) days of receipt of Tenant's notice, Department and Tenant shall determine whether the reasons for termination can be resolved to their mutual satisfaction. In the event that Department and Tenant determine that said reasons cannot be resolved, termination shall become effective ninety (90) days after Department's receipt of the notice.

1.38.4 Expiration of the Agreement or termination hereof by either party shall not release or discharge any payment, obligation, or liability owed to the other party or any third party under the Agreement as of the date of such expiration or termination.

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1.38.5 Department expressly reserves the right to terminate the Agreement with notice in cases of emergency or where there exists risk to public health, safety, and welfare as determined by Department in its sole discretion.

1.38.6 ~~Notwithstanding any provision or language to the contrary, Department may terminate the Agreement, in whole or in part, solely for the convenience of the State, by ninety (90) days written notice to Tenant sent by regular and certified mail return receipt requested. Upon receipt of such notice, Tenant may choose for such termination to become effective immediately, or may instead continue to operate the Leased Premises in accordance with the terms and conditions of the Agreement for a period not to exceed ninety (90) days after receipt of the notice or until the end of the current Renewal Term, whichever occurs sooner.~~ **INTENTIONALLY OMITTED**

1.38.7 If Department exercises its right to terminate the Agreement, ~~with or without breach by Tenant,~~ Department shall not be liable to Tenant or any other person claiming by or through Tenant for any losses, damages, costs, or expenses (including reasonable attorney's fees), or other claims occasioned by such termination except as expressly stated in the Agreement.

1.38.8 If Department terminates the Agreement due to breach of covenant by Tenant, Department reserves the right not to enter into another lease with Tenant on land owned by the Department and reserves the right not to allow Tenant to sublease, or be a subcontractor on, land owned by Department.

1.39 END OF TENANCY

1.39.1 In the event of any termination of the Agreement, Tenant shall agree to immediately cease all operations on the Leased Premises and deliver up peaceable possession and use of the Leased Premises to Department in at least as good condition as it was delivered to Tenant at the commencement of the Agreement. Upon termination, Department may at once re-enter and remove any and all persons as well as any personal property occupying the Premises. If Tenant shall fail to remove any personal property lawfully belonging to and removable by Tenant within the time prescribed by any notice of termination or before the stated expiration of the Agreement, Department may appropriate the same to its own use without allowing any compensation therefore, or may remove the same at the expense of Tenant. In the event that Tenant removes any personal property, Tenant hereby covenants to pay any and all damages which may be caused to the Leased Premises or other property of Department by said removal.

1.40 HOLDOVER TENANCY

1.40.1 If Department permits Tenant to remain in possession of the Premises after expiration of the Term of the Agreement without extending, renewing, or executing a new agreement, Tenant shall agree to occupy the Leased Premises subject to all the terms, covenants, and conditions contained in the Agreement unless modified by a subsequent Lease amendment and/or extension. Such holding over by Tenant shall not constitute a renewal or extension of the

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Agreement. Department may elect to treat Tenant as one who has not removed at the end of its Term and shall thereupon be entitled to all the remedies against Tenant as provided by law.

1.41 PAYMENT ABATEMENT

1.41.1 Tenant shall agree that the Leased Premises is subject to unscheduled closures for reasons of health, public welfare, public safety, and government closures. Except as set forth in **Subsections 1.7.4 and 1.7.5, Subsection 1.8.5 and** Section 1.14, payment abatements will not be given for any reason, including if Tenant is unable to operate the Leased Premises for any reason.

1.42 LIENS OR ENCUMBRANCES

1.42.1 Tenant shall agree to have no power to do any act or make any contract which may create or be the foundation for any lien, mortgage, or other encumbrance upon the interest of the Department in the Leased Premises or any other part of the Leased Premises. If Tenant should cause any improvements or repairs to be made to the Leased Premises, or if Tenant should cause any labor to be performed or material to be furnished therein, thereon, or thereto, neither the Department, nor the Leased Premises shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished, but all such improvements, repairs, labor, and material, shall be made, furnished, and performed at Tenant's expense, and Tenant shall agree to be solely and wholly responsible to the contractors, laborers, and materialmen furnishing and performing such labor and material. Tenant shall agree to require, as a condition of any contract or subcontract for labor or materials, all contractors, laborers and materialmen to execute a release of lien against the Department.

1.42.2 If, because of any act or omission (or alleged act or omission) of Tenant, any mechanic's or other lien, charge, or order for the payment of money shall be filed against the Leased Premises, or against the Department (whether or not such lien, charge, or order is valid or enforceable as such), Tenant shall agree to, at its own cost and expense, cause the same to be cancelled and discharged of record or bonded within ten (10) days after notice to Tenant of the filing thereof.

1.42.3 Tenant shall agree to, upon completion of any Improvement(s), provide the Department with a signed copy of any and all lien(s), said statement indicating that all contractors have been paid and all lien(s) have been discharged.

1.43 SOLICITATION

1.43.1 Tenant warrants that no person has been employed directly or indirectly to solicit or secure this Lease Agreement in violation of the provisions of N.J.S.A. 52:34-19 and that the laws of the State of New Jersey relating to the procurement and performance of this Lease Agreement have not been violated by any conduct of Tenant, including the paying or giving directly or indirectly of any fee, commission, compensation, gift, gratuity, or consideration of any kind to any State employee,

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officer, or official.

1.44 AMENDMENTS

1.44.1 The parties hereto agree that this Lease Agreement may be amended, supplemented, changed, modified, or altered upon mutual agreement of the parties hereto made in writing. This Lease Agreement cannot be modified or amended by conduct or course of dealings.

1.45 ENTIRE AGREEMENT

1.45.1 The parties hereto agree that the Lease Agreement represent the entire agreement between the parties; all negotiations, oral agreements, and understandings are merged herein.

1.46 NOTICES: WRITTEN AND ELECTRONIC

1.46.1 Except as specified in Section 1.7 (Rent) and Section 1.38 (Termination) of this Agreement, the parties hereto agree that all submissions, approvals, and notices which may be required under this Lease Agreement shall be sent by email to the addresses listed below, and the subject line of the email must include “**LE24-001 Spring Meadow Lease**”:

Department: Department of Environmental Protection
Office of Transactions and Public Land Administration
Public Land Administration
401 E. State Street
Mail Code 401-07
P.O. Box 420
Trenton, NJ 08625-0420
Email: PublicLandAdministration@dep.nj.gov

And Copy To: Department of Environmental Protection
State Parks, Forests and Historic Sites
Allaire State Park
4265 Atlantic Avenue
Farmingdale, New Jersey 07727
Email: Inga.Gabliks@dep.nj.gov

Tenant: Name
Title and/or Entity Designation
Street Address
Town, NJ Zip Code
Email:

1.46.2 Tenant is required to have a working email address on file with the Department prior

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to the start of the Term. Tenant shall agree to maintain an active email address, designated for the Agreement and report any changes during the Term of the Lease Agreement. Failure by the Tenant to maintain the active email account, designated for the Lease Agreement, shall be grounds for termination of the Lease Agreement under Section 1.38.

1.46.3 Either the Department or Tenant may, at any time, change an address by mailing to the address above a notice of the change at least ten (10) days prior to such change.

1.47 RECEIPT OF WRITTEN NOTICE

1.47.1 Department and Tenant agree that the receipt of a written notice is considered five (5) calendar days after the date on the said written notice.

1.48 SERVICE PERFORMANCE WITHIN U.S.

1.48.1 Tenant agrees, in accordance with Executive Order 129 (2004) and N.J.S.A. 52:34-13.2 (P.L. 2005, c. 92), that all services performed under the Agreement shall be performed within the United States. In the event that all services performed under the Agreement shall not be performed within the United States, Tenant shall agree to send Department a letter that states with specificity the reasons why the services cannot be so performed. Any such letter shall require review and approval pursuant to N.J.S.A. 52:34-134.2 prior to execution of the Agreement or the delivery of the services which will not be performed within the United States. Unless previously approved by Department, a shift to performance of services outside the United States during any Term of the Agreement shall be deemed a material breach, subject to Suspension of Operations and/or Termination in accordance with the terms and conditions set forth in Sections 1.37 and 1.38.

1.49 HAZARDOUS SUBSTANCES

1.49.1 At no time during this Lease Agreement shall Tenant store, upon the Leased Premises or anywhere else within the Leased Premises, hazardous substances as that term may be defined by the New Jersey Department of Environmental Protection (see N.J.S.A. 58:10-23.11b) or by the federal Environmental Protection Agency pursuant to section 311 of the "Federal Water Pollution Act, amendments of 1972" (33 U.S.C. 1321; see also 40 C.F.R. 302.3) and the list of toxic pollutants designated by Congress or the Environmental Protection Agency pursuant to section 307 of that Act (33 U.S.C. 1317; see also 40 C.F.R. 401.15). Tenant shall agree to not violate the terms of N.J.S.A. 58:10A-21 et seq., nor shall Tenant do anything that would subject the Department to the provisions of 42 U.S.C. 6991, et seq., entitled "Regulation of Underground Storage Tanks" in the Hazardous and Solid Waste Amendments of 1984, P.L. 98-616, section 234 et seq.

1.50 INDEPENDENT PRINCIPAL

1.50.1 Tenant shall, at all times, agree to act as an independent principal and not as an agent or employee of the Department. Tenant agrees not to enter into any agreement or commitment with

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any other party on the Department's behalf.

1.51 WAIVER-CUMULATIVE REMEDIES

1.51.1 Failure of either party to complain of any act or omission on the part of the other party, no matter how long same may continue, shall not be deemed a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of breach of any provision of this Lease Agreement shall be deemed waiver or breach of any other provision or a consent to any subsequent breach of the same or any other provision. The consent to or approval of any action on any one occasion by either party hereto shall not be deemed a consent to or approval of any other action on the same or any subsequent occasion.

1.51.2 Any and all rights and remedies which either party may have under this Lease Agreement or by operation of law, either at law or in equity, by reason of a breach by the other party, shall be distinct, separate, and cumulative and shall not be deemed inconsistent with any other right or remedy, and any two or more or all of such rights and remedies may be exercised at the same time.

1.51.3 Acceptance by either party of any of the benefits of this Lease Agreement with knowledge of any breach thereof by the other party shall not be deemed a waiver by the party receiving the benefit of any rights or remedies to which it is entitled hereunder or by law.

1.52 SUCCESSION AND BINDING AGREEMENT

1.52.1 Except as otherwise set forth herein, all of the terms and provisions of this Lease Agreement shall be binding upon and shall inure to the benefit of the successors and assignees of the Department and Tenant's successors, executors, administrators, and assigns.

1.53 SEVERABILITY

1.53.1 If any term or provision of this Lease Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease Agreement, or the application of such term and provision of this Lease Agreement, shall be valid and be enforced to the fullest extent permitted by law.

1.54 HEADINGS

1.54.1 The article, paragraph, and subparagraph headings throughout this Lease Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Lease Agreement.

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1.55 NO DISCRIMINATION

1.55.1 Tenant must comply with all provisions of the Americans with Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101, et seq.

1.55.2 Tenant shall agree to not discriminate, and shall abide by all anti-discrimination laws, including, but not limited to, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d-2000d-4; the discrimination and affirmative action provisions of N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4; the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.; and all rules and regulations promulgated pursuant thereto.

1.55.3 Specifically, Tenant shall agree to not unlawfully discriminate: 1) against any person, employee, or applicant for employment, or 2) in allowing access to and use of the Leased Premises.

1.56 AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT REQUIREMENTS

1.56.1 Pursuant to N.J.A.C. 17:27-3.5, Tenant agrees that:

(i) Tenant or its subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Tenant will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that all employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the public agency compliance officer setting forth provisions of this nondiscrimination clause;

(ii) Tenant or its subcontractor, where applicable, shall, in all solicitations or advertisements for employees placed by or on behalf of Tenant, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

(iii) Tenant or its subcontractor, where applicable, shall send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of Tenant's commitments

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under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment; and

(iv) Tenant or its subcontractor, where applicable, agrees to comply with all regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time, and codified at N.J.A.C. 17:27-1.1 et seq.

1.56.2 Further, pursuant to N.J.A.C. 17:27-3.7, Tenant agrees that:

(i) Tenant and its subcontractor, if any, agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

(ii) Tenant and its subcontractor, if any, agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

(iii) Tenant and its subcontractor, if any, agrees to revise any of its testing procedures, if necessary, to ensure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

(iv) In conforming with the targeted employment goals, Tenant and its subcontractor, if any, agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

1.57 NEW JERSEY CONFLICT OF INTEREST LAW

1.57.1 The New Jersey Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq. and Executive Order 198 (1988), prohibit certain actions by persons or entities which provide goods or services to any State Agency. Specifically:

(i) Tenant shall agree to not pay, offer to pay, or agree to pay, either directly

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or indirectly, any fee, commission, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which Tenant transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer has an interest within the meaning of N.J.S.A. 52:13D-13g.

(ii) The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from Tenant shall be reported, in writing forthwith by Tenant to the Attorney General and the Executive Commission on Ethical Standards.

(iii) Tenant may not, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in Tenant to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

(iv) Tenant shall agree to not influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for Tenant or any other person.

(v) The provisions cited above in Subparagraphs (i) through (iv) shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with Tenant under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

1.58 MACBRIDE PRINCIPLES AND IRANIAN INVESTMENTS

1.58.1 The successful bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence

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therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

1.58.2 In addition, the successful bidder must certify that neither the Tenant nor any of the Tenant's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to N.J.S.A. 52:32-55.

1.59 NO THIRD PARTY BENEFICIARIES

1.59.1 There shall be no third-party beneficiaries of the Lease Agreement, and no person, firm, or entity not a party to this Lease Agreement shall be entitled to claim any right, benefit, or presumption from or estoppel by this Lease Agreement.

1.60 STATE HOUSE COMMISSION APPROVAL

1.60.1 The Agreement shall not be effective unless Department obtains from the State House Commission evidence that the State House Commission has approved the execution of the Agreement for the purposes and subject to the terms and conditions herein provided.

1.61 PAY TO PLAY

1.61.1 Pursuant to N.J.S.A. 19:44A-20.13, et seq. (P.L.2005, c.51) and specifically N.J.S.A. 19:44A-20.21, and Executive Order No. 117 (2008) it shall be a breach of the terms of the Agreement for Tenant to: (1) make or solicit a contribution in violation of P.L.2005, c.51; (2) knowingly conceal or misrepresent a contribution given or received; (3) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (4) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (5) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by Tenant itself, would subject that entity to the restrictions of P.L.2005, c.51; (6) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (7) engage in any exchange of contributions to circumvent the intent of P.L.2005, c.51; or (8) directly or indirectly through or by any other person or means, do any act which would subject Tenant to the restrictions of P.L.2005, c.51. Further, where Tenant is a business entity, as defined by N.J.S.A. 19:44A-20.17, and the value of the Agreement exceeds \$17,500, Tenant shall submit with the Agreement a "Certification and Disclosure of Political Contributions Form", certifying that it has not made any contributions prohibited by P.L.2005, c.51 and reporting all contributions Tenant made during the preceding four years to any political organization organized under 26 U.S.C. 527 of the Internal Revenue

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Code that also meets the definition of a “continuing political committee” within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7, and the “Ownership Disclosure Form”. It is the Tenant’s continuing obligation to report any contributions it makes during the term of the Agreement. Additionally, unless the Agreement is required by law to be publicly advertised for bids, if Tenant is a for-profit business entity, as defined by N.J.S.A. 19:44A-20.26 and the value of the Agreement exceeds \$17,500, Tenant shall submit with the Agreement a “Vendor Certification and Political Contribution Disclosure Form” listing its political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L.1973, c.83 (C.19:44A-1 et al.) and that were made by Tenant during the preceding 12-month period, along with the date and amount of each contribution and the name of the recipient of each contribution. The forms and instructions are available at <http://www.state.nj.us/treasury/purchase/forms.shtml>.

1.61.2 Tenant is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, section 3) if Tenant received contracts in excess of Fifty Thousand (\$50,000.00) Dollars from a public entity in a calendar year. It is Tenant’s responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

1.61.3 Tenant shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form, certifying that no contributions prohibited by Chapter 51 have been solicited or made by Tenant and reporting all contributions Tenant made during the preceding four years to any political organization organized under 26 U.S.C. § 527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required Certification and Disclosure Form can be found in the Bid Application, which Tenant is required to complete, and submit, with any bid. The Bid Application is attached hereto as Exhibit F and available at: <https://dep.nj.gov/otpla/public-notice/>. If Tenant has a currently valid Two-Year Certification and Disclosure Form, it may be submitted instead of a new form.

1.61.4 The State Treasurer or his designee shall review the Disclosures submitted by Tenant pursuant to this Section, as well as any other pertinent information concerning the contributions or reports thereof by Tenant prior to award or during the term of the Agreement. If the State Treasurer determines that any contribution or action by Tenant violated Chapter 51 and EO 117, the State Treasurer shall disqualify Tenant from award of the Agreement. If the State Treasurer or his designee determines that any contribution or action constitutes a breach of the Agreement that poses a conflict of interest pursuant to Chapter 51 or EO 117, the State Treasurer shall disqualify Tenant from award of the Agreement.

1.61.5 Tenant shall submit the Chapter 271 Vendor Certification and Political Contribution Disclosure Form, disclosing its political contributions within the immediately

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preceding twelve (12) month period. The required Certification and Disclosure Form can be found in the Bid Application, which Tenant is required to complete, and submit, with any bid. The Bid Application is attached hereto as Exhibit F and available at: <https://dep.nj.gov/otpla/public-notices/>.

1.61.6 No prospective Tenant will be precluded from being retained by virtue of the information provided in the Chapter 271 Vendor Certification and Political Contribution Disclosure Form, provided the form is fully and accurately completed.

1.62 PREVAILING WAGE ACT

1.62.1 Without limiting the scope of any other provision of this Lease Agreement, Tenant agrees to comply with the New Jersey Prevailing Wage Act, P.L. 1963, Chapter 150 as codified in N.J.S.A. 34:11-56.25, et seq. Tenant also agrees to comply with 42 U.S.C. § 9604 (g)(1). If any conflict exists between the New Jersey Prevailing Wage Law and § 9604 (g)(1), the Tenant must comply with the federal requirements.

1.63 CORPORATE RESOLUTION

1.63.1 Prior to the Effective Date of the Lease Agreement, Tenant shall agree to provide the Department with a copy of Tenant's certificate of incorporation on file with the Secretary of State and a current certificate of standing issued by the Secretary and shall remit annual certifications.

1.63.2 A certified copy of a resolution adopted by the Board of Directors of Tenant, authorizing the execution of this Lease Agreement by Tenant for the purposes and subject to the terms and conditions herein provided shall be attached to the Lease Agreement.

1.63.3 Prior to the Effective Date of this Lease Agreement, Tenant shall agree to provide the Department with a copy of a completed Ownership Disclosure Form pursuant to N.J.S.A. 52:25-24.2.

2 ADDITIONAL INFORMATION

2.1 REVISIONS TO THE RFP

2.1.1 In the event that it becomes necessary to clarify or revise this RFP prior to the bid submission deadline, such clarification or revision will be by addendum and shall be posted on the Department's website at <https://dep.nj.gov/otpla/public-notices/>.

2.2 ADDENDUM AS PART OF THE RFP

2.2.1 Any addendum to this RFP shall become part of this RFP, as well as part of any Agreement resulting from this RFP.

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2.3 ISSUING OFFICE

2.3.1 This RFP is issued by the New Jersey Department of Environmental Protection, Public Land Administration. The Manager of the Public Land Administration is the sole point of contact between the bidder and the Department for purposes of this RFP.

2.4 BIDDER RESPONSIBILITY

2.4.1 The Bidder assumes sole responsibility for the complete effort required by this RFP. No special consideration shall be given after proposals are opened because of a bidder's failure to be knowledgeable of and about all the requirements of the RFP. By submitting a proposal in response to this RFP, each bidder represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP. The Bidder further represents that it has made its own calculations based on the information provided and its own research and experience, of costs, expenses, and revenues, for which the Department bears no liability.

2.5 COST LIABILITY

2.5.1 The State assumes no responsibility and bears no liability for costs incurred by bidders in the preparation and submission of proposals in response to this RFP. Furthermore, the Department does not warrant or guarantee any current or future revenues that may be generated from operation of the Leased Premises.

2.6 CHANGES TO TERMS AND CONDITIONS

2.6.1 A bidder may propose changes or modifications or take exception to any of the State's terms and conditions. If a bidder does so, the bidder must state specifically in writing in the bid proposal the changes, modifications or exceptions proposed. Any proposed change, modification or exception in the State's terms and conditions by a bidder will be a factor in the determination of an award. Bidders must be aware, however, that there are certain terms and conditions that are required by law (e.g., Pay to Play, Affirmative Action, Business Registration, Prevailing Wage), and are, therefore, a mandatory component of this RFP and the Lease Agreement.

2.7 REQUIRED SERVICES

2.7.1 The Bidder agrees to operate the Leased Premises in the manner as set forth in this RFP and the Agreement, the Bidder's Bid Proposal submitted in response to this RFP, and perform the services set forth in the Lease Agreement.

2.8 JOINT VENTURES

2.8.1 Joint venture proposals submitted in response to this RFP are prohibited and will

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result in a determination that the proposal is materially non-responsive to this RFP.

3 PROPOSAL PREPARATION & SUBMISSION

3.1 GENERAL INFORMATION

3.1.1 The Bidder must strictly follow the instructions contained in this RFP and the Bid Application in preparing and submitting its proposal. The Bidder is advised to thoroughly read and follow all instructions.

3.1.2 The information required for submission in response to this RFP has been determined to be essential in the proposal evaluation and bidding award process. Any qualifying statements made by the Bidder as to the RFP's requirements may result in a determination that the Bidder's proposal is materially non-responsive. Each bidder is given wide latitude in the degree of detail it elects to offer or the extent to which plans, processes, and procedures are revealed. However, each bidder is cautioned that insufficient detail may result in a determination that the proposal is materially non-responsive or, alternatively, may result in a low technical score being given to the proposal.

3.2 BID APPLICATION

3.2.1 Tenant shall submit a completed Bid Application along with their monetary proposal. The Bid Application is attached hereto as Exhibit F and available at <https://dep.nj.gov/otpla/public-notices/>.

3.2.2 Each bidder shall submit a Bid Application containing a complete description of how the bidder intends to fulfill its obligations under the RFP and Agreement. The narrative should exemplify to the State that the bidder understands the objectives of the RFP and Lease Agreement, the nature of the services required, and the level of effort necessary to successfully execute the services under the RFP and Agreement. The potential tenant's narrative further should be designed to demonstrate that the Bidder's proposal is viable and can be successfully executed, and that the potential tenant's approach to undertaking the RFP and Agreement and fulfilling the State's goals is in accordance with tasks and subtasks involved.

3.2.3 Mere reiteration of the requirements set forth in the RFP and Agreement is strongly discouraged, as such a narrative would not provide insight into the Bidder's ability to successfully perform under the RFP and Lease Agreement. In sum, the Bidder's response to this RFP should be designed to demonstrate that the Bidder's detailed plans and proposed approach to performing the requirements under the RFP and Agreement are realistic, attainable, and appropriate and that the Bidder's proposal will lead to successful performance thereunder.

3.3 MONETARY PROPOSAL

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3.3.1 The Bidder must submit the requested monetary proposal. Failure to submit the requested monetary proposal shall result in the Bidder's proposal being considered materially non-responsive. Each bidder must hold its price(s) firm through completion of the proposal award process.

3.3.2 The minimum monetary proposal must be an amount equal to or greater than the Department's minimum annual rental amount requirement of **Three Hundred Twenty-Five Thousand Nine Hundred and Eight Dollars (\$325,908.00)** during each Calendar Year, with the understanding that the first and last year Rent may not be based on full calendar years.

3.3.3 Any monetary proposal that does NOT meet the minimum monetary proposal required, shall be determined to be unresponsive to the Request for Proposal and the bid submission shall be rejected without further consideration.

3.4 LEASE BID EVALUATION & SELECTION PROCESS

3.4.1 Department shall review and evaluate all bids in accordance with the procedures and upon the criteria set forth in Section 3.4.2 below and further outlined in the Bid Application attached as Exhibit F, Lease Bid Evaluation & Selection Process attached as Exhibit G, and in the Evaluation Sheet attached as Exhibit H.

3.4.2 The following evaluation criteria, not necessarily listed in order of significance, shall be used to evaluate bids received in response to this RFP:

- a. The bidder's Operational Management Plan;
- b. The bidder's Mobilization and Implementation Plan;
- c. The bidder's Experience and Organizational Structure;
- d. The bidder's Financial Viability;
- e. The bidder's Organizational History and Past Performance; and
- f. The bidder's monetary proposal.

The evaluation criteria categories will be used in developing more detailed evaluation criteria for the review process, as more fully described in the Evaluation Sheet set forth in Exhibit H.

3.5 BEST AND FINAL OFFER (BAFO)

3.5.1 Department reserves the right to invite submission of a Best and Final Offer (BAFO) from one bidder or multiple bidders in accordance with the procedures as outlined in the

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Bid Evaluation & Selection Process attached as Exhibit G.

3.6 BUSINESS REGISTRATION REPORT

3.6.1 Pursuant to N.J.S.A. 52:32-44, the State (including the Department of Environmental Protection) is prohibited from entering into an agreement with an organization unless the bidder has provided a copy of its business registration certificate (or interim registration) as part of its bid submission. Failure to submit a copy of the Business Registration Certificate within the bid proposal is a cause for rejection of the bid proposal.

3.7 REJECTION OF PROPOSAL

3.7.1 Department reserves the right to reject, in its sole discretion, any or all bids at any point in the Lease Bid Evaluation & Selection Process. If any entity, including any individual, corporation, partnership, sole proprietorship, affiliate or other entity related thereto, that is: (a) listed as debarred by the State of New Jersey; (b) was a party to a prior agreement with the Department that was terminated or not renewed due to breach, non-performance, failure to make required payments due thereunder or otherwise for cause; or (c) owes the Department compensation of any type from a prior agreement shall be considered non-responsive to this solicitation. The Tenant shall not employ, or subcontract or assign the Lease Agreement to, any individual, corporation, partnership, sole proprietorship, affiliate or other entity related to a disqualified entity.

3.7.2 In addition to the reasons for rejection of bid proposals mentioned throughout this RFP and above, proposals may be rejected for any or all of the following reasons:

- a. The Department reserves the right to reject, in its sole discretion, any or all bid proposals at any point in the Bid Proposal Evaluation and Selection Process.
- b. The Bidder is not authorized to do business in the State of New Jersey;
- c. The Department has determined that there is an actual or perceived conflict of interest;
- d. Bidder has failed to include any required information with the submittal;
- e. Bidder has failed to disclose a potential conflict of interest;
- f. The Department has determined that there are false or misleading statements in the submittal;
- g. Bidder has not provided the Department with a valid New Jersey Business Registration Certificate;

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- h. The proposal is not responsive to the RFP;
- i. The Bidders monetary proposal does not meet the minimum monetary proposal required;
- j. The Department has determined that Bidders proposed modification and or changes are considered to be inconsistent with the purposes of the Request for Proposal and the Lease Agreement; and
- k. The Bidder did not individually attend or send a representative, and properly register at the Mandatory Pre-Bid Meeting and Site Visit set forth in Section 3.11.

3.8 CONTRACT AMOUNT

3.8.1 Compensation amount(s), when stated in this RFP, shall not be construed as either the maximum or minimum amount which Department shall be obligated to accept as the result of this RFP or any Agreement entered into as a result of this RFP.

3.9 DEFAULT OR REFUSAL TO ENTER CONTRACT

3.9.1 In the event of default of the successful bidder or his/her refusal to enter into a contract with Department, Department reserves the right to accept any other qualified bidder.

3.10 PRECEDENCE OF AGREEMENT TERMS AND CONDITIONS

3.10.1 The Lease Agreement shall consist of this RFP, any addendum to the RFP, the successful bidder's proposal, any best and final offers, the Department's Notice of Acceptance, and the executed Lease Agreement.

3.10.2 In the event of a conflict between the provisions of this RFP and any addendum to the RFP, the addendum shall govern. In the event the Bidder's terms and conditions conflict with the State's, the State's terms and conditions will prevail, unless the Bidder is notified in writing of the State's acceptance of the Bidder's terms and conditions.

3.11 MANDATORY PRE-BID MEETING AND SITE VISIT

3.11.1 A Mandatory Pre-Bid Meeting and Site Visit ("Meeting") has been scheduled for this procurement. The Meeting will be held at **1:30 p.m. on May 30, 2024** at the Spring Meadow Inn (4185 Atlantic Ave., Farmingdale, NJ). In the event inclement weather is anticipated on the day of the Mandatory Pre-Bid Meeting and Site Visit, the Department will post an update with information on cancellation at <https://dep.nj.gov/otpla/public-notices/> by 5:00 pm on May 29, 2024. The rain date for the Pre-Bid Meeting and Site Visit is scheduled for June 4, 2024 at 1:30

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p.m.

NOTE: Proposals will only be accepted from bidders who individually attend or were represented, and properly registered at the Pre-Bid Meeting and Site Visit. A proposal from a bidder that does not attend or fails to properly register at the Pre-Bid Meeting and Site Visit shall be rejected automatically.

3.11.2 The purpose of the Meeting is solely to provide a formal opportunity for potential bidders to view the Leased Premises. The Department cannot guarantee that golf carts will be available to use at the Pre-Bid Meeting so bidders should be prepared to walk around the Golf Course property. The Department will accept questions from bidders regarding this RFP at the meeting, however responses to all questions will be answered and posted in writing on the Department's website pursuant to Subsection 3.12.4.

3.12 QUESTIONS AND INQUIRIES

3.12.1 The Department will accept questions and inquiries regarding this RFP from all potential bidders. Questions may be directed only to the Department and must be submitted by email to: PublicLandAdministration@dep.nj.gov.

3.12.2 The cut-off date for the submission of questions shall be **May 31, 2024**. It is requested that bidders with long, complex, or multiple-part questions submit them as far in advance as possible. Questions should follow the organization of the RFP and be asked in consecutive order, from beginning to end. Each question should begin by referencing the page number and the paragraph number of the RFP to which it relates. Bidders may submit questions in person at the Mandatory Pre-Bid Meeting and Site Visit, however, the Department will respond to all questions in writing and post them to its website pursuant to Subsection 3.12.4 below. All questions must be directly tied to this RFP.

3.12.3 Brief *procedural* inquiries may be accepted over the telephone by the Public Land Administration Section. The Public Land Administration Section will not answer any inquiries that require interpretation of the RFP. However, oral explanations or instructions given over the phone shall not be binding upon the State. **Bidders shall not contact the State Parks, Forests and Historic Sites, or any other branch of the Department directly, in person or by telephone, concerning this RFP.**

3.12.4 All responses to written questions received by email and at the Mandatory Pre-Bid Meeting and Site Visit will be posted at <https://dep.nj.gov/otpla/public-notice/> by ~~June 7, 2024~~ **June 24, July 3, 2024 July 18, 2024**.

3.13 PROPOSAL DELIVERY AND IDENTIFICATION

3.13.1 In order to be considered, a proposal responding to this RFP must arrive at the

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Public Land Administration no later than noon on ~~June 27, 2024~~ ~~July 15, 2024~~ ~~August 1, 2024~~ **August 22, 2024**. Proposals may be submitted by mail, by hand delivery, or by email. All bidders submitting proposals are advised to allow adequate delivery time to ensure punctual delivery of proposals by the date and time set forth herein. Late proposals shall be ineligible for consideration.

If submitted by mail or hand carry, the exterior of the Bid Proposal package envelope must be labeled with the LE number associated with the Lease Opportunity, the name of the State Park/Forest/Area and Lease Opportunity (e.g. LE24-001 Spring Meadow Golf Course & Inn Lease), the Bid Proposal package Due Date, and the name of the individual or corporation submitting the proposal.

Each bidder must submit one (1) complete original proposal that clearly has been marked as the “ORIGINAL” proposal. Each bidder also must submit one (1) full, complete, and exact copy of the original. The copy is necessary in the evaluation of your bid proposal. Bidders failing to provide the requisite number of copies shall be charged the cost incurred by the Department to produce the required number of copies. It is suggested that the Bidder make and retain a copy of its bid proposal for its own records.

It is permissible to hand carry a sealed Bid Proposal package to the Public Land Administration Section. Please contact the Public Land Administration Section at PublicLandAdministration@dep.nj.gov for directions for hand delivery.

If submitted by email, the subject line of the email(s) must contain “Lease Bid” and the LE Number associated with the Lease Opportunity (e.g. Lease Bid for LE24-001), and the body of the email(s) must identify the name of the State Park/Forest/Area and Lease Opportunity (e.g. Spring Meadow Golf Course & Inn Lease), the Bid Proposal package Due Date, and the name of the individual or corporation submitting the proposal. If the proposal is submitted in multiple emails, the body of the email(s) must also specify the total number of emails being submitted. All bidders submitting proposals by email are advised that the maximum email size Department is capable of receiving is twenty-five (25) megabytes (MB). Proposals exceeding twenty-five (25) MB must be submitted in multiple emails, each less than twenty-five (25) MB, and each containing the information outlined in this paragraph. Bidders submitting proposals by email will receive an automatic reply confirming receipt of the email. If the proposal is submitted in multiple emails, only one automatic reply will be generated. Department will make its best effort to confirm receipt of all bid submission emails. If an automatic reply is not received after submitting a proposal by email, or if Department has not confirmed receipt of a proposal submitted in multiple emails, please contact the Public Land Administration Section at PublicLandAdministration@dep.nj.gov or (609) 940-4400 prior to the Bid Proposal Due Date.

Department will not open proposals submitted by any delivery method until the Bid Proposal Due Date has closed. The proposal shall be submitted to the following mail or email address according to delivery method:

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By Mail: Department of Environmental Protection
Office of Transactions and Public Land Administration
Public Land Administration Section
Attention, Judeth Yeany, Assistant Director
PO Box 420, Mail Code 401-07
Trenton, New Jersey 08625-0420

By Email: PublicLandAdministration@dep.nj.gov

4 EXHIBITS

The following are attached to and made a part of this RFP:

- A. Leased Premises
- B. Lease Agreement (proposed)
- C. Floor Plan of Spring Meadow Inn (First & Second Floor)
- D. State Park Service's Goose Management Program Policy
- E. Department-owned Equipment List
- F. Bid Application
- G. Bid Evaluation and Selection Process
- H. Evaluation Sheet