

Park District of Highland Park

2023 Agreement for Recreational Services of an Enterprise Facility at 2205 Skokie Valley Road

ADDENDUM # 1

September 14, 2023

ISSUED BY:

Ryan Ochs

Park District of Highland Park

636 Ridge Road

Highland Park, IL 60035

NOTICE TO ALL BIDDERS:

The attention of all Proposers is called to this Addendum. This Addendum to the Request for Proposals documents is issued to modify, explain or correct the original documents. It is hereby included in and made part of the RFP Contract Documents and Project Manual, whether or not attached to.

All requirements of the original Project Specifications, Scope of Work and Drawings shall remain in force except as amended by this document.

Item # 1 – Concession and Site Agreement with Dome Owner

Item # 2 – 2022 Dome Owner Payment History

Item # 3 – Questions presented at Pre-Proposal meeting on September 13, 2023 with answers.

CONCESSION AND SITE AGREEMENT

THIS CONCESSION AND SITE AGREEMENT (the or this "**Agreement**"), made as of the day of October 1, 2021, THE PARK DISTRICT OF HIGHLAND PARK, an Illinois park district and unit of local government (the "District"), and Highland Park Sports Dome, LLC (the "Grantee"), an Illinois limited liability company (the District and the Grantee are hereinafter sometimes referred to individually as a "Party" and collectively as the "**Parties**").

WITNESSETH:

WHEREAS, the property commonly known as the Highland Park Country Club is subdivided into seven lots pursuant to the Highland Park Golf Course Plat of Resubdivision recorded November 10, 2004 as document number 5679534, in Lake County, Illinois ("Plat") (any references to Lots 1 through 7 in this Lease shall mean Lots 1 through 7 as identified on the Plat); and

WHEREAS, the City of Highland Park ("City") is the owner of Lot 3 of the Highland Park Golf Course (the "**Premises**"), being a portion of the Highland Park Country Club. A depiction of the Premises is attached hereto as **Exhibit A**; and

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220/1 *et. seq*) empowers contracting public agencies to exercise the powers, functions, privileges, or authority which any of the public agencies so contracting is authorized to perform; and

WHEREAS, the City and the District are parties to a certain Lot 3 Lease Agreement by and between the City of Highland Park and the Park District of Highland Park, dated January 1, 2019, (the "Lot 3 Lease"); and

WHEREAS, the Lot 3 Lease provides that the City shall assign to the Park District all of its rights described in the Dome Agreement and shall take all actions necessary under the Dome Agreement to cause the Grantee to make payments directly to the Park District; and

WHEREAS, the Grantee desires to obtain a license to operate a concession as part of the District's operation of Lot 3 of the Highland Park Country Club and to cooperate with the District in order that the Grantee may operate the concession adjacent to the Golf Learning Center parking lot,

which concession entails the erection of an air-supported canopy (hereinafter referred to as "**Canopy**") for indoor recreation uses, soccer, lacrosse, multiple field sports practice and game uses not inconsistent with zoning, and related equipment, but excluding indoor golf practice and driving range uses (hereinafter said indoor recreational uses, and related equipment are referred to collectively as "**Dome**") and to install and thereafter operate and maintain the Dome, open and available to the general public, as and for the indoor recreational uses and other related uses (hereinafter the operation of the Dome and other related uses are referred to collectively as "**Concession**"); and

WHEREAS, for the purpose of the operation and maintenance of additional parking and the Dome, the Grantee's Concession license will permit it to utilize the existing Golf Learning Center parking lot as well as an area adjacent to the Golf Learning Center parking lot, including ingress thereto and egress therefrom for vehicles/pedestrians/utilities, for the erection of the Canopy (hereinafter said Golf Learning parking lot, area with ingress thereto and egress therefrom for vehicles/pedestrians/utilities, and the area adjacent to the Golf Learning Center parking lot are generally and collectively referred to as "**Site**") substantially shown upon the Site Plan, (Exhibit A hereto); and

WHEREAS, on the 18th day of November 1999 the initial Concession and Site Agreement was executed by the City, District, and Midlane Dome, LLC; and

WHEREAS, on the 26th Day of August 2009 the First Amended and Restated Concession and Site Agreement, was executed by the City, the Park District and HP Sports Dome, Inc., NFP; and

WHEREAS, on the 27th Day of August 2019 the Second Amended and Restated Concession and Site Agreement, was executed by the City, the Park District and HP Sports Dome, Inc., NFP; and

WHEREAS, nothing contained in this Agreement is intended to amend or supersede the terms of the Lot 3 Lease;

NOW, THEREFORE, in consideration of the terms, conditions and amount of the license fee and other good and valuable consideration as set forth herein, the adequacy of which is acknowledged hereby, the Parties agree as follows:

1. INCORPORATION OF RECITALS. The above and foregoing recitals are incorporated herein as though fully set forth in the paragraph.

2. LICENSE AND TERM. The District hereby grants to Grantee a nonexclusive license (the "License") to use the Site described above, situated as shown upon said Site Plan (Exhibit A hereto), during the periods set forth in this Agreement. The grant of this License includes the Concession (as described above) and non-exclusive licenses to the Grantee and its invitees to use utility "feeds" and Registration Building parking Lot but not including use of the registration building — all located upon the Site. The term of this License shall commence on October 1, 2021 and expire on April 30, 2024 (hereinafter referred to as the "Initial Period").

3. EXTENSIONS. The District will have the option, to extend the Agreement for one additional successive one year term (each year being called a "Period") upon Grantee's written request to District on or before April 15, 2023, which approval may be withheld at the sole discretion of the District. The word "Term" as used hereinafter shall be deemed to include the Initial Period and all extensions of the Initial Period, if and when occurring as provided herein. In no event shall the Term extend past April 30, 2024.

4. UTILITIES. In all events, during the Initial Period and each Period during the Term of this Agreement, the Grantee shall pay promptly the costs of all utilities serving the Site, including but not limited to natural gas, electricity, and potable water.

5. CONCESSION. Pursuant to the terms of the License and this Agreement, the Grantee shall have the exclusive right to erect the Dome upon the Site for the purpose of the operation and maintenance by the Grantee of the Concession. It is understood that the "related uses" involved with the Concession may include a "pro shop" sales center, restaurant, food and beverage stands and/or vending machines, and/or other uses accessory to the foregoing uses and the Concession, but excluding golf lessons and indoor driving range uses. It is also understood, however, that the Grantee must apply for and obtain all applicable licenses including without limitation a business license, food service license, and a liquor license as required by local, State, and/or Federal law, rule, and/or regulation, for any or all of such given uses or accessory uses and that such licenses are not and shall not be deemed to have been applied for and/or issued by reason of the Parties having entered into this Agreement. All employees working the Concession upon the Site shall be employed by the Grantee and shall not be deemed District employees. Without the express written approval of the District:

(A) The Grantee will not sell any commodity upon the Site other than those stipulated in this Agreement and will conduct its operations without infringement upon the rights of others, confining same to the Site as hereinbefore set forth, and

(B) No exterior signage shall be permitted other than that shown upon Exhibit B (Signage and Landscape Plan) attached hereto and hereby made a part hereof or as otherwise allowed by the District.

6. LICENSE FEE. The Grantee shall pay an annual License Fee for the Concession, in an amount equal to the sum of: (A) \$75,000 per year, payable in equal semi-annual amounts on May 1 and November 1 each year of the Term (the "Base Fee"); and (B) Four percent (4%) of the Grantee's annual gross sales from all operations of the Concession (the "Revenue Sharing Fee") (the Base Fee and Revenue Sharing Fee are collectively referred to as the "Fee"). The Revenue Sharing Fee shall be paid in arrears on February 1 and May 1 each year. Grantee shall maintain complete and accurate records of all revenues, fees collected, transactions, and related documentation in connection with the revenue performance of this agreement and grant the Park District access to such records on reasonable notice and during regular business hours. Grantee shall submit an accounting of all revenues and expenses to the Park District on a monthly basis, which shall be due by the end of the month succeeding the month described in the report (e.g. the monthly report for May is due by June 30). Park District shall have the right, at its expense and not more frequently than once every 12 months, on its own or through a designee, to perform an audit or inspection of Grantee's Revenue and Expense accounting records. Park District shall give Vendor not less than 20 business days prior notice of its intention to conduct such audit or inspection and shall schedule it at such time as to minimally interfere with Grantee's day to day business operations. In the event the audit reveals an underpayment by the Grantee of more than 5% of the Revenue Sharing Fee for the preceding Period, the Grantee shall pay the cost of the District's audit and all underpayments shall bear interest at a rate of 6% per annum from the date each payment was due.

The Base Fee shall be adjusted on each anniversary date of the Term by an amount equal to 3% of the preceding year's Base Fee. The Fee shall be paid to the District's Executive Director at West Ridge Center, 636 Ridge Road, Highland Park, Illinois 60035, or such other person or place as the District may designate from time to time by Notice to the Grantee.

7. SECURITY. During each Period, the Grantee shall have full responsibility for security of the Site, the Dome, Registration Building parking lot, and additional on-site parking,

with the understanding the District, as part of its operation of the Golf Learning Center, will also continue its current and usual practice of snow plowing the Registration Building parking lot as well as the additional on-site parking.

8. DEVELOPMENT. At its sole cost and expense, the Grantee will undertake all of the necessary actions to ensure proper maintenance of the Dome and all appurtenances or improvements to the Site in accordance with all State and local ordinances and building codes, and other reasonable requirements.

(A) No construction of structures or additions thereto and no improvement of the Site shall be undertaken or allowed unless such construction or improvement is undertaken as part of the Concession, approved by the District and in accord with the Site Plan (Exhibit A hereto).

(B) The Grantee shall build or cause to be built the Dome and the improvements to the Site in compliance with the terms of this Agreement and the Municipal Code of the City of Highland Park, including but not limited to the Building Code and shall submit to the building official of the City (hereinafter referred to as "Building Official") an application for any necessary building permit(s) accompanied by building permit plans (hereinafter referred to as "Building Permit Plans") as required, and payment of all applicable permit, and other fees.

(C) It is further understood that regardless of any other obligations hereunder, the Grantee may not in any event take any action to pierce or cause to be pierced the cap over the landfill at the Site or remove fill.

(D) Grantee may not occupy the Dome for its intended uses until a certificate of occupancy for the Dome or any part thereof has been issued by the Building Official.

(E) Minor changes in the Site Plan (Exhibit A hereto), Signage and Landscape Plan (Exhibit B hereto) and the location, siting, and height of structures, streets, driveways, and open spaces may be authorized by the District's Executive Director which consent will not be reasonably withheld, if such changes are required by engineering or other circumstances not foreseen at the time the Site Plan (Exhibit A hereto) was approved. Nothing in this Subsection shall be construed to indicate that the District Executive Director must approve any changes requested.

9. RIGHT OF ENTRY — OBLIGATION OF REMOVAL. The erection of all temporary structures, including but not limited to the inflatable Canopy itself, to be erected by the

Grantee by reason of this Agreement must first be approved in writing by the Executive Director of the District, which will not be unreasonably withheld provided the Grantee complies with all applicable codes, District ordinances and terms and provisions of this Agreement.

(A) The Grantee and the Grantee's agents or employees shall have the right at any time during the Term hereof, at its own expense (i) to install upon or in the Site improvements any equipment necessary to support and maintain the Dome and the Concession License granted hereby, and (ii) to remove any such improvements and equipment so constructed, made or installed.

(B) In order to further the District's programs, the Grantee will afford the District the privileges set forth on Exhibit D attached hereto and made a part hereof.

(C) The Canopy, the revolving door, and mechanical equipment shall remain personal property and shall belong and be removable by the Grantee during the Term hereof, and until the end of the Term, unless the License and/or this Agreement are earlier terminated, then for ninety (90) days after such date prior to the last day of the Term. Except as otherwise set forth in this Agreement, any and all underground improvements, including but not limited to the additional on-site parking lot, the steel pylons, footings and foundations installed to support the Canopy — all constructed by the Grantee, shall belong to the District upon the termination of the License and/or this Agreement.

10. LANDSCAPING — SCREENING. All improvements on the Site shall be appropriately landscaped, fenced, and/or earth bermed (hereinafter referred to as "**Screening**"). Such Screening shall conform substantially with that shown upon the **Signage and Landscape Plan (Exhibit B)** hereto) and otherwise comply with the applicable portions of the City Code and, where such Screening is required pursuant to the terms of this Agreement, such Screening shall be approved in writing by the Executive Director of the District, which consent will not be reasonably withheld prior to the operation of the Concession during each Initial Period and Period hereof. Between Periods, the revolving door and mechanical equipment will be screened from the view of persons using the Golf Learning Center.

11. MAINTENANCE OF THE SITE — REMOVAL AT EXPIRATION OF THE TERM.

(A) The Grantee shall keep the entire Site in good condition and repair in accordance with applicable ordinances of the City and the District. At the expiration of the Term or such earlier date as this Agreement and/or the Concession License is terminated, the Grantee will

remove (to the ground level on the date hereof) the Dome, the Canopy, and all other aboveground improvements and equipment constructed, made or installed by the Grantee but will not restore the "chipping area"; and will otherwise yield up the Site in at least as good condition as when the same originally was entered upon by the Grantee at the commencement of the original Concession and License Agreement, ordinary wear and tear and loss by causes beyond the Grantee's control expected. It is understood that within sixty (60) days of the termination of the Concession License, at the sole discretion of the District as provided in writing, the Grantee will either: (1) remove the footings and foundations but not the steel pylons, from the Site and prepare the Site for the planting of grass; or (2) cover the footings and foundations installed to support the Canopy with clean soil fill. Following its completion of either of the above, at its sole cost and expense, the Grantee shall plant grass seed on the Site, and otherwise finalize this work to the satisfaction of the Executive Director of the District. In the event the District gives Notice of its intent to exercise its option of first refusal as set forth in Section 21, the requirements of this Section shall be deemed waived and the Grantee will not remove any of the equipment or improvements including the Dome.

(B) The Grantee warrants that it shall, on a daily basis during each of all of the Periods, including the Initial Period, during the Term hereof:

- (1) Remove or cause to be removed all trash, debris and litter from the Site, including but not limited to, the Registration Building parking lot and on-Site parking lot.
- (2) Maintain the Dome and all of the improvements upon the Premises in a sightly condition and in good order and repair, ordinary wear and tear excepted.
- (3) Allow the District to access the Site and to enforce its ordinances, and
- (4) Close the Concession for business each day during the hours of 1:00 a.m. and 4:00 p.m., Monday — Friday.

(C) During the Term hereof, it is understood that the District will maintain the Site as part of its operation of the Golf Learning Center.

- (D) In the event that the Site is abandoned by the Grantee and after receiving notice thereof, the Grantee fails to resume activity at the Site within ninety (90) calendar days, the District will have the option, in its sole discretion, but not the obligation to take ownership of any and all personal property located at the Site.

12. PERMITS — APPLICATIONS. The Grantee and its agents may apply to governmental authorities and public utility companies, in the Grantee's name, or jointly with the District for the approvals and licenses required of or deemed useful by the Grantee for its use of the Site, or in order to construct or make improvements, or to install equipment, pursuant to this Agreement. The Grantee shall reimburse District for any reasonable costs incurred by the District in connection with the foregoing. The Grantee shall pay all license, permit and inspection fees ("Additional Fees") required by applicable laws, codes and District ordinances in connection with its use of the Site or the conduct of the Concession business. Such Additional Fees shall be in addition to the Fee set forth in Section 6 of this Agreement.

13. CONDITIONS SUBSEQUENT. The Grantee's rights and obligations hereunder are contingent upon the Grantee's receipt of the approvals and licenses referred to in this Agreement on or before November 1, 2021. If the Grantee fails to obtain said approvals and licenses by said date, by giving Notice to the District on or before November 1, 2021, the Grantee shall have the option either to waive such contingencies in the event the Grantee has not received such approvals and licenses by said date and thereby maintain this Agreement in effect or to terminate this Agreement. If the Grantee exercises the option to waive such contingencies, such waiver will not relieve the Grantee from obtaining said approvals and licenses prior to commencing operation of the Dome. In the event the Grantee exercises the option to terminate this Agreement, except for the Grantee's obligations contained in Section 9 of this Agreement and the Grantee's obligations theretofore incurred pursuant to this Agreement, the Concession License and this Agreement shall forthwith terminate and end on the date specified in such Notice; provided however, the District shall be entitled to retain all licenses and other Fees theretofore paid by the Grantee and to collect from the Grantee as well as any part of the Fee due and owing as a result of the operation of the Concession prior to the effective date of such termination pursuant to such Notice.

14. DISTRICT USE OF THE DOME. Grantee will make the Dome available for the exclusive use and benefit of District and its affiliated youth sports organizations not less than 10 hours per week using the rate schedule in **Exhibit D**.

15. LIENS The Grantee shall indemnify the District and the City from all liens or claims for lien for labor or materials by reason of any work done or material furnished by the Grantee in connection with construction pursuant to this Agreement. If any such lien or claim for lien is filed against the Site, the District and/or the City, as the case may be, shall give Grantee Notice thereof and the Grantee shall take such steps as are necessary to remove the lien. If such lien has not been corrected within thirty (30) days after such Notice or if the Grantee fails to commence to cause removal of the lien within such period and thereafter diligently pursue the removal of the lien, the District and/or the City (as the case may be), without inquiring into the validity thereof, may remove the lien at its expense, and the Grantee shall repay the District and/or the City, as the case may be, for any amounts so advanced within fifteen (15) days after receipt of a Notice containing the District's and/or the City's, as the case may be, statement therefore.

16. INSURANCE. During the term hereof, Grantee shall, at its expense, obtain and maintain insurance of the types and in the amounts listed in Exhibit E and shall provide a Certificate of Insurance and Endorsement(s) naming the District and the City as an additional insured. The District reserves the right to require modifications in the amount and or types of insurance required to be maintained by the Grantee at any time during the Term of this Agreement.

17. INDEMNIFICATION. As used in this Section, "District" includes the District, the City of Highland Park, and other grantees and franchisees using the public property at, near or on the Site and their commissioners, officers, agents, employees and volunteers; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including but not limited to court costs and legal (attorneys' and paralegal) fees, which may result directly or indirectly from: (a) injury to or death of any persons whomsoever (including District's and the District's officers, agents, and employees, the Grantee's officers, agents, and employees, as well as any other person); (b) damage to or loss or destruction of property at, near, or on the Site; (c) Grantee's breach of or failure to perform any of its obligations or covenants under this Agreement; and (d) loss of revenue or use, or any other damages.

(A) In consideration of the License and permission herein granted, the Grantee shall indemnify and hold harmless jointly and severally the District and the City from any Loss which may be due to or arise directly or indirectly from: The prosecution of any work or the conduct of any operation or use contemplated by this Agreement, including but not limited to the installation, construction, maintenance, repair, renewal, modification, reconstruction, relocation, or removal of the Dome or any part thereof; or the presence, operation, or use of the Dome or contents escaping therefrom, or the collapse thereof; except to the extent that the Loss is caused by the willful and wanton conduct of the District, in the case of the District, or the City, in the case of the City.

(B) The District and the City shall not be liable to the Grantee, its permitted assignees, agents, lessees, or invitees for any damage or injuries (including death) to any person or damage to or theft of any of their properties except to the extent that injuries thefts or damages are caused by the willful and wanton conduct of the District, in the case of the District, or the City, in the case of the City.

(C) The District will indemnify and hold harmless the Grantee, its agents and employees from any Loss (including costs, expenses, and attorneys' fees) which is due to or arises directly or indirectly from the willful and wanton conduct of the District, its officers, agents and employees. Nothing herein shall be construed to be a waiver by the District of any of its immunities available by statute or common law. The District specifically reserves the right to raise said immunities on behalf of it, its officers, agents and employees for any claims made pursuant to this paragraph.

(D) The District will indemnify and hold harmless the Grantee, its agents and employees from any Loss (including costs, expense, and attorneys' fees) which is due to or arises directly or indirectly from the willful and wanton conduct of the District, its officers, agents and employees. Nothing herein shall be construed to be a waiver by the District of any of its immunities available by statute or common law. The District specifically reserves the right to raise said immunities on behalf of it, its officers, agents and employees for any claims made pursuant to this paragraph.

18. **DESTRUCTION OF THE DOME.** In the event the Dome is destroyed or damaged to the extent of fifty percent (50%) or more of its replacement costs, at its sole option the Grantee, or at its sole option the District, may terminate this Agreement. The Dome and related equipment

must be removed from the Site within thirty (30) days after the occurrence of such destruction or damage at which time the site must be restored in accordance with Section 11(A).

19. **SECURITY DEPOSIT.** Upon the execution hereof, in order to assure the District the Grantee will perform in a timely and proper manner its obligations under this Agreement, at the time of the execution hereof, the Grantee shall deposit with the Executive Director of the District and thereafter continue to maintain, a guarantee (hereinafter referred to as "**Financial Guarantee**") in the amount of \$50,000. Any and all interest earned on the security deposit will be the property of the District and will not be returned to the Grantee.

(A) If the Grantee fails to perform any of its obligations under this Agreement, the District shall, except for the case of emergency, give written Notice to the Grantee specifying the manner in which the Grantee has failed to so perform. If such failure has not been corrected within thirty (30) days after such Notice or if such work has not been commenced to cause such cure within such period and thereafter diligently pursued to completion, the District may enter upon the Premises and perform such work as may be necessary to correct such failure. In the event of an emergency, the definition and determination of which shall be within the sole discretion of the District, the District may cause persons to enter upon the Premises to exercise and perform such work as necessary to correct such failure of the Grantee. By reason of its performance of such work, the District shall not be liable or responsible to the Grantee or any person, firm or corporation claiming through the Grantee for any losses or damage thereby sustained by the Grantee or any one claiming by or under the Grantee, except for the District's wanton or willful conduct. The Grantee shall be liable for the cost of such work and shall promptly reimburse the District for such costs together with interest at the prime rate established by the published prime rate of interest published in The Wall Street Journal (as of the date hereof such rate is found in the Money Rate Section),(hereinafter referred to as "**Prime Rate**") plus two percent (2%) calculated from the date of expenditure until repayment. If the Grantee fail to reimburse the District within thirty (30) days after receipt of a Notice including a statement for such work from the District, then said indebtedness shall constitute a lien against the title to the Dome and the District shall have the option to draw upon the Financial Guarantee and reimburse itself the full amount of its costs in performing said work.

(B) This Financial Guarantee shall consist of one of the following:

(1) A cash deposit in the amount of \$50,000; or

(2) A Letter of Credit (substantially in the form of **Exhibit C** hereto) issued by a bank having assets at least equivalent to those of a bank pre-approved by the Park District of Highland Park Executive Director, in the amount of \$50,000.

20. RIGHT OF INSPECTION AND REVIEW. The Parties acknowledge that the use of indoor domes is a changing field. Therefore, in order to provide the maximum degree of flexibility in this Agreement, the following evaluations and review provisions will apply.

(A) The District shall have the right to inspect all construction, reconstruction or installation work performed by the Grantee and/or its contractors under the provisions of this Agreement and the Concession in order to ensure the Grantee's compliance and to protect the health, safety and welfare of the general public.

(B) The District may request and there shall be conducted with the Grantee evaluation and review sessions at any time or times during the Term of this Agreement, and the Grantee shall cooperate in such review and evaluation; and/or

(C) The subjects of these evaluations and review sessions may include, but are not limited to, rates, the Grantee's performance, programs offered to the general public, public complaints, and District audits of the Grantee's books to determine Gross Sales.

As a result of these evaluations and review sessions, the District, or the Grantee or both may determine that a change in the terms of this Agreement may be appropriate. In that event, either Party may propose modifications to this Agreement in the manner provided by Section 28 hereof

21. FIRST REFUSAL OPTION OF DISTRICT. During the Term hereof, but not later than ninety (90) days before the expiration of any Period, the District may exercise the option to direct Grantee to donate the Canopy and appurtenant improvements to the District for zero dollars (\$0.00)(the "Donation Option"). In the event the District fails to exercise the Donation Option, the Grantee may then pursue the sale of the Canopy, provided that the Donation Option shall renew for each Period of the Term.

Following the expiration of each Donation Option, if Grantee commences negotiations for the sale of the Canopy, and further, in the event that the Grantee is successful in its negotiations, before making any bona fide sale of all or any part of said Canopy to a person other than the District, the Grantee shall, upon receipt of a bona fide offer, first give notice to the District, which Notice

shall state therein (i) the Grantee's desire and intention to sell; (ii) the full details of the bona fide offer received by the Grantee, or other complete description of the transaction, and (iii) the full and complete description of the Canopy or portion thereof to be so sold. Such Notice shall constitute an irrevocable offer to sell the described Canopy to the District at the purchase price and upon the same terms and conditions as offered by the bona fide prospective purchaser. For a period of thirty (30) days after the receipt of such Notice, the District shall have an option to so purchase all of the Canopy with respect to which the Offer is made. If the District elects to exercise its option to so purchase within said thirty (30) days, the District shall transmit Notice of such election to the Grantee, which Notice shall state therein the District's agreement to purchase the offered Canopy at the offered price and in accordance with and subject to the terms as previously communicated, and on the closing date, the District shall make payment of the purchase price in the same manner and upon the same terms as offered by the bona fide prospective offeror referred to in the Notice of the Grantee to the District. In the event Notice of the election to exercise the option in respect to any such Notice by the Grantee is not given in substance as described above, or if said Notice is given but said purchase price is not paid, or if the District shall fail or neglect to tender within the said thirty (30) day period any Notice to purchase all of the Canopy so offered, then District's said first refusal option shall terminate and the Grantee may proceed, without any limitation or restriction under this Agreement, except as provided under section 25 below, to sell and dispose of the interest in respect of which the Offer was made and under the same terms and conditions, provided that such sale or disposition is consummated within one hundred twenty (120) days from the date of the first Notice by the Grantee to the District. If such sale or disposition is not so consummated then no further disposition shall be made except by another Notice to the District in the manner as hereinabove set forth.

22. DEFAULT

(A) In the event: (i) the Grantee shall default in the payment of any Fee to be paid by it pursuant to this Agreement and such default shall continue for ten (10) days after written Notice thereof; or (ii) the Grantee shall default in the performance of any other of the Grantee's obligations herein contained and such default shall continue for thirty (30) days after written Notice thereof is received by the Grantee (provided, however, that if the default reasonably cannot be cured within thirty (30) days, said thirty (30) day period shall be extended for such additional time as is reasonably necessary to cure the default); or (iii) the Grantee is adjudicated a bankrupt or a trustee is appointed for the Grantee after a petition has been filed against the Grantee under the Bankruptcy Act of the United States; or (iv) a receiver is appointed for the Grantee's business or property

(and the order of adjudication or appointing a trustee or receiver has not been vacated within sixty (60) days after the entry thereof) — then, upon ten (10) days' Notice to the Grantee, the Grantee's right to possession of the Site may be terminated by the District and the mere retention of possession thereafter by the Grantee shall constitute a forcible detainer of the Site, and if District so elects by Notice to the Grantee, all Licenses issued pursuant to this Agreement shall thereupon terminate, and upon termination of the Grantee's right to possession, whether this Agreement be terminated or not, the Grantee shall surrender possession of the Site immediately and without judicial proceedings. In addition to the above and foregoing, in, the event such default involves the failure of the Grantee to maintain required insurance in the manner set forth in this Agreement, the Grantee shall immediately cease the operation of the Concession until such default is cured. The foregoing rights of the District are supplementary and in addition to, and not a limitation on or substitution for, the rights of the District under Section 19, above.

(B) In addition to the above, in the event the Grantee defaults in the payment of any Fee or other amount payable to District under this Agreement, the Grantee shall pay the District or the District, as applicable, *per diem* interest upon the total amount due and unpaid based upon the Prime

Rate plus two percent (2%). If the Grantee fails to pay the full amount due, with interest aforesaid, the District shall have the right to negotiate and draw upon the Financial Guarantee on its own behalf or on behalf of the District.

23. NOTICES. All Notices and demands under this Agreement shall be in writing, and shall be deemed to have been given when delivered in person or by courier, or when mailed by United States registered or certified mail with proper postage prepaid. Notice to the Parties shall be as follows:

If to the Grantee:	If to the District:
Highland Park Sports Dome, LLC	Park District of Highland Park
921 Sherwood Dr.	636 Ridge Road
Lake Bluff, IL 60044	Highland Park, IL 60035
Attn: Catherine Rigamer	Attn: Executive Director

24. SALE OR LEASE OF PROPERTY. If the City, at any time during the Initial Period or any extended term of this Agreement, decides to convey or otherwise assign ownership of the Site to a person, firm or corporation other than the Grantee, such conveyance or assignment

shall be subject to this Agreement and the Grantee's rights hereunder. Accordingly, so long as the Grantee fulfills in a timely manner the conditions and covenants contained in this Agreement required of it to be performed, the Grantee will have peaceful and quiet possession of the Site in accordance with this Agreement, during the times specified herein. All rights of the District under this Agreement shall inure to the benefit of the District's successors and assigns.

25. **ASSIGNMENT AND/OR SUBLEASING.** This Agreement and/or the Concession may be sold, assigned or transferred at any time by the Grantee to Grantee's parent company or any affiliate or subsidiary of Grantee or its parent company, to any successor entity with or into which Grantee is sold, merged or consolidated, or to any entity resulting from a reorganization of Grantee, provided Grantee is not in breach of its obligations under this Agreement, such person, firm or corporation is financially capable of carrying out Grantee's obligations under this Agreement as reasonably determined by the District and such person, firm or corporation agrees to be subject to and bound by the terms hereof. Otherwise, this Agreement may not be sold, assigned or transferred without the specific written consent of the District, which consent the District in its sole discretion may withhold.

26. **HAZARDOUS SUBSTANCES.** It is understood the Site is located over a "capped" garbage and refuse disposal land fill. Notwithstanding any language to the contrary elsewhere contained in this Agreement, the District and/or the City shall not be liable to the Grantee or any person, firm or corporation acting as the Grantee's construction contractor or on behalf of the Grantee or its contractors for any damage, loss, expense, response cost or liability, including consultant fees and attorneys' fees, resulting from the presence of hazardous substances on, under or around the Premises or resulting from hazardous substances being generated, stored, disposed of or transported to, on, under or around the Premises by the District. The Grantee shall hold the District and the City harmless from and indemnify the District and the City against any damage, loss, expense, response costs or liability, including consulting fees and attorneys' fees, resulting from hazardous substances generated, stored, disposed of or transported to, on or under the Premises as a result of the Grantee's construction, piercing the cap over the landfill, and/or use of the Premises or the Site by the Grantee or its employees, agents or contractors. For purposes of this Agreement, "Hazardous Substances" shall mean (i) any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons, (ii) any substance which is flammable, radioactive, corrosive or carcinogenic, (iii) any substance the presence of which the Premises causes or threatens to cause a nuisance or health hazard affecting human health, the environment, the Premises or property adjacent thereto, or (iv) any substance the presence of which on the Premises requires investigation or remediation under any hazardous substance law, as the same may hereafter be

amended. "Hazardous Substance Law" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. 9601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.; the Clean Water Act, 33 U.S.C. 1251 et seq.; the Clean Air Act, 42 U.S.C. 7401 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq.; the Toxic Substance Control Act, 15 U.S.C. 2601 et seq.; the Emergency Planning and Community Right to Know Act (SARA Title III) 42 U.S.C. 11001 et seq.; and any applicable state law or regulation.

27. GOVERNING LAW. This Agreement shall be governed and interpreted under the laws of the State of Illinois.

28. MISCELLANEOUS. The terms of this Agreement may be modified and amended from time to time by a written amendment signed by the Parties hereto or their successors and assigns.

(A) If any suit or action shall be brought to enforce or declare any of the terms of this Agreement, to terminate this Agreement, to recover possession or the Site, or to recover any Fee or damages sustained as a result of a default in the performance of any obligations under this Agreement or a breach of any of the representations and warranties herein contained, the Party not prevailing in such suit or action shall be liable to the prevailing Party for the prevailing Party's costs and expenses, including, but not limited to, court costs and reasonable attorneys' fees, and expert witnesses' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

(B) Each Party hereto represents and warrants that it has full power and authority to enter into this Agreement and to perform the covenants and obligations herein contained. Each person executing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement

(C) This Agreement and all the rights, covenants, and obligations contained in this Agreement shall inure to the benefit of and be binding upon the Parties and their successors and assigns. It is understood that as of the date of this Agreement, the Grantee is comprised only of the Party or Parties names as such in this Agreement or any other instrument executed herewith.

(D) The failure of any Party to exercise any right, power or remedy given to it under this Agreement, or to insist upon strict compliance with it, shall not constitute a waiver of

the terms and conditions of this Agreement with respect to any other or subsequent breach, nor a waiver by any party of its rights at any time to require exact and strict compliance with all of the terms of this Agreement. The rights or remedies under this Agreement are cumulative to any other rights or remedies which may be granted by law.

(E) Except as expressly set forth herein, this Agreement constitutes the entire Agreement between the Parties hereto with respect to the relationship of the Parties contemplated herein and supersedes all prior and contemporaneous agreements and understandings, both written and oral, of the Parties with respect to the subject matter hereof. If any clause, phrase, provision or portion of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect impair, or render invalid or unenforceable the remainder of this Agreement, nor any other clause phrase, provision or portion thereof, nor shall it affect the application or any clause, phrase, provision or portion hereof to other persons or circumstances. Changes in the number, gender and grammar of terms and phrases herein, where necessary to conform this Agreement to the circumstances of the Parties hereto, shall in all cases be construed as though in each case fully expressed herein. This Agreement shall be construed in accordance with the laws of the State of Illinois. The invalidity or unenforceability of any provision of this Agreement shall not offset or invalidate any other provision. If any provision of this Agreement is capable of two (2) constructions, one of which would render the provision invalid and the other of which would make the provision valid, then the provision shall have the meaning which renders it valid. In the event any portion of this Agreement or part thereof shall be deemed invalid by a court of competent jurisdiction, such invalidity of said provision or part thereof shall not affect the validity of any other provision hereof Headings contained herein are for convenience only and shall not be deemed a part of this contract.

(F) The Grantee certifies hereby that it does not and shall not discriminate in its employment practices or in the provisions of its services and that it is not barred from entering into this Agreement as a result of a violation of either Section 33E-3 or Section 33E-4 of the Illinois Criminal Code and that it has a written sexual harassment policy in place and full compliance with 775 ILCS 5/2-105(A)(4). Prior to the commencement of any work on the site all Contractors engaged by Grantee shall provide certification of compliance with all applicable laws in the form required by the District and the District.

(G) The Agreement has been negotiated by all Parties and shall not be construed against any Party as the drafter of this Agreement or any portion thereof.

(H) Each signatory for a Party warrants to the other Parties that the execution, delivery and performance of this Agreement by the Party on whose behalf such signatory is signing, and its consummation of the transactions contemplated hereby, have been duly and effectively authorized by all corporate action on the part of such Party. Each signatory further warrants that this Agreement has been duly executed and delivered by such Party and is a legal, valid and binding obligation of such Party enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditor's rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefore may be brought. In addition, each signatory has been presented its Corporate Resolution or Ordinance, as the case may be, authorizing the execution of this Agreement.

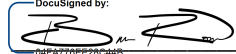
(I) The Parties understand that several of the improvements as set forth above have already been installed.

29. **DUPLICATES.** This Agreement may be executed in duplicates, each of which shall be deemed an original, provided all parties have signed each such duplicate; and in such instance each such duplicate shall constitute an original hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

GRANTOR:

PARK DISTRICT OF HIGHLAND PARK

DocuSigned by:

CHP477EE220C98...

10/27/2021
Date: _____

GRANTEE:

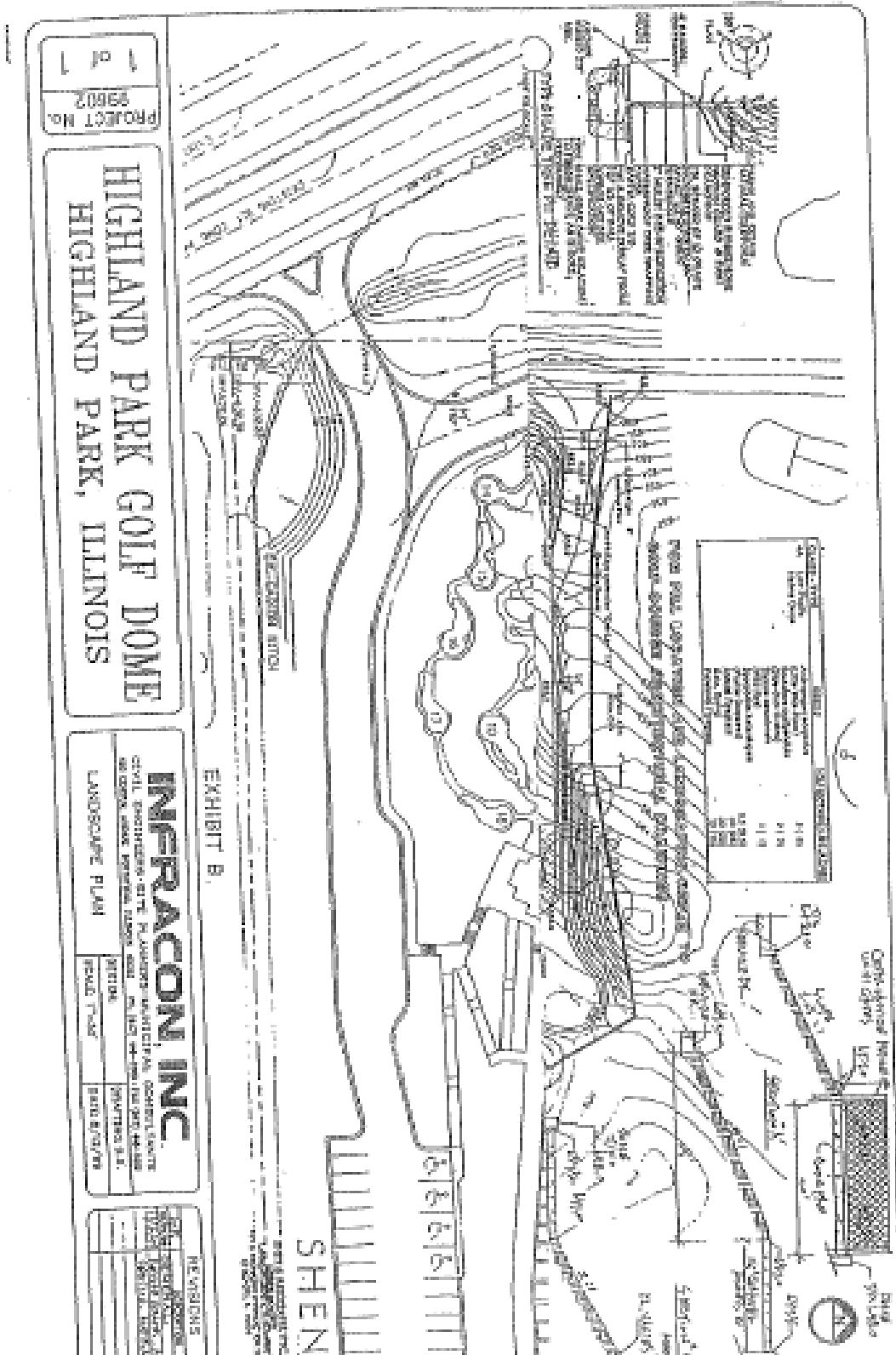
HIGHLAND PARK SPORTS DOME LLC

DocuSigned by:

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10/27/2021
Date: _____

EXHIBIT "A" SITE PLAN



PROJECT No. 99602

HIGHLAND PARK GOLF DOME HIGHLAND PARK, ILLINOIS

INFRACON, INC.
CIVIL ENGINEERS-SITE PLANNERS-MUNICIPAL CONSULTANTS
40 CENTRAL HOME SERVICE CENTER ROAD N. W. 81ST AVE. S.W. PALM BEACH, FLORIDA 33409
SCALE: T-30' DATE: 5/12/99

REVISIONS

NO.	DESCRIPTION	DATE

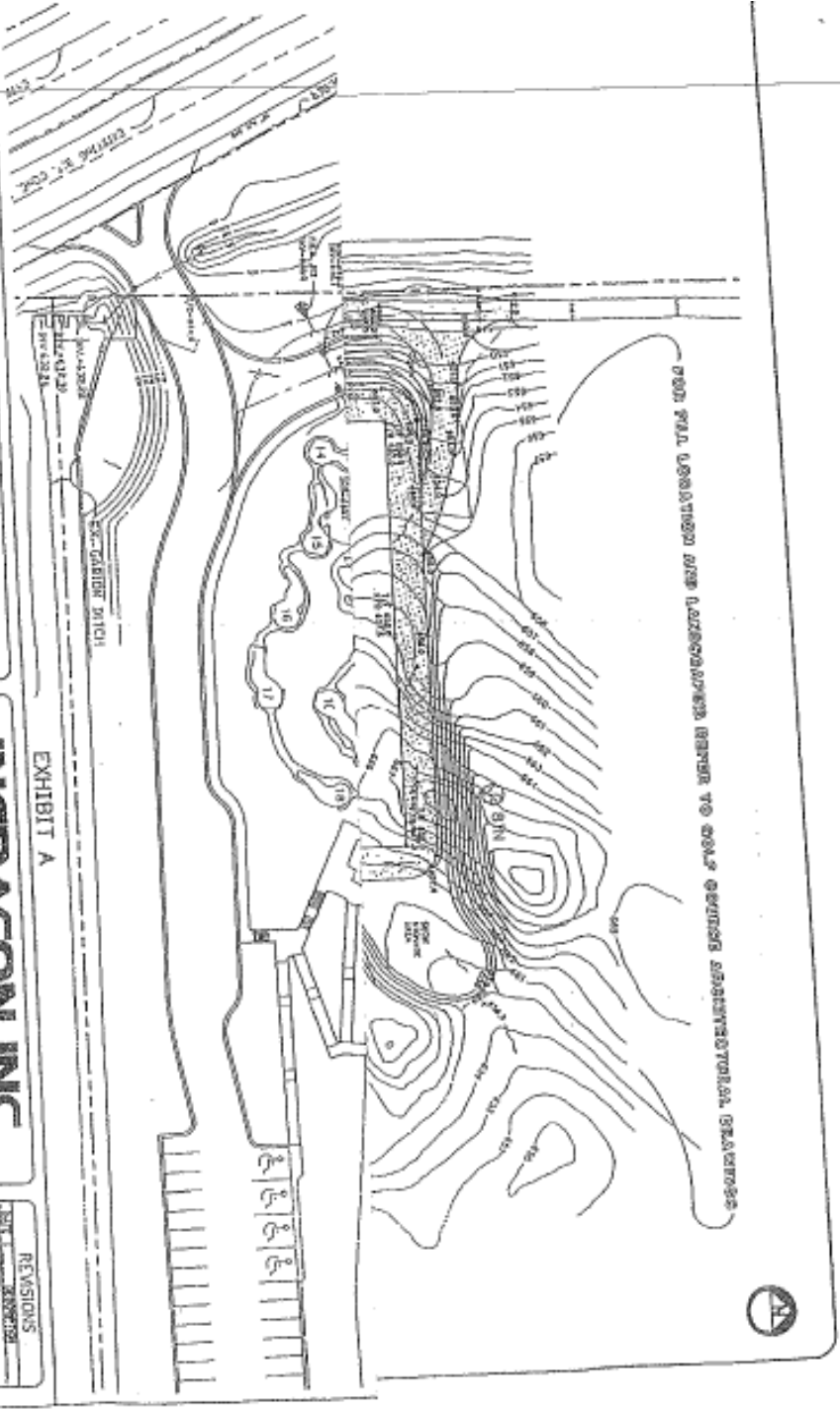


EXHIBIT "B"

SIGNAGE AND LANDSCAPING PLAN

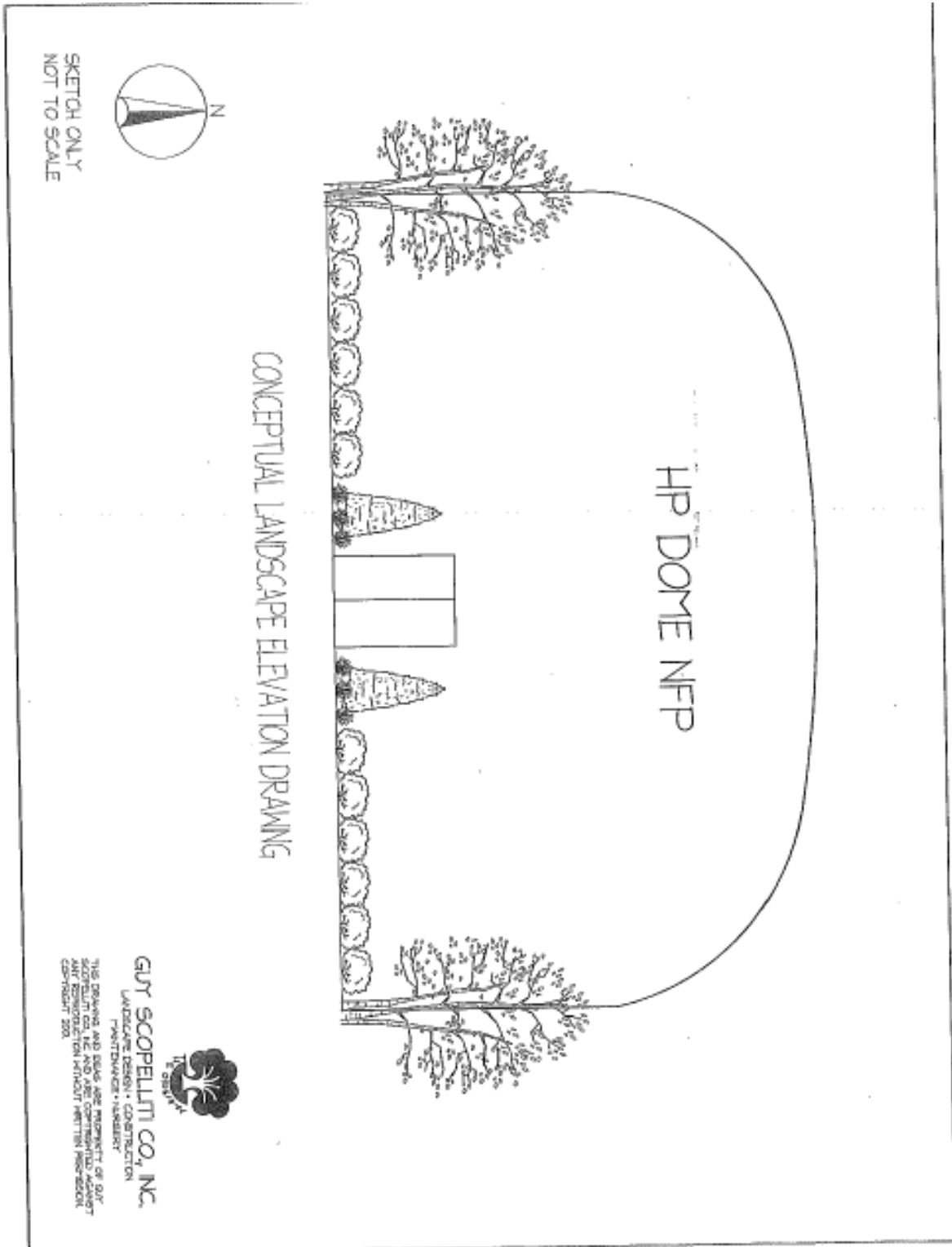


EXHIBIT "D"

PRIVILEGES OF THE PARK DISTRICT OF HIGHLAND PARK

It is agreed that Dome staff and Park District staff shall conduct a scheduling meeting semi-annually in April and September.

Each Monday through Friday, prior to 4 p.m., the Park District shall have exclusive use of the Dome, at no charge, to provide golf lessons and indoor driving range uses.

The District and Grantee will develop a mutually agreed upon schedule for Park District programming to include but not be limited to baseball, softball, soccer and lacrosse and other approved not for profit Park District Affiliates including, but not limited to AYSO in the facility. District programming is to be given priority in scheduling over any other outside organization. For such non-golf usage, Park District will pay 55% less than Prime time rates and 75% less than nonprime time rates for their use of the facility.

The District reserves the ability to use up to 75 square feet for storage of Park District personal property, equipment and office furniture at no expense to the District.

EXHIBIT "E"
INSURANCE COVERAGES

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001 1185) or Insurance Services Offices form number GL 0002 covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability, or the most recent revision.
2. Insurance Services Office Business Auto coverage form number CA 0001 0187 covering Automobile Liability, Code 1 "any auto" and endorsement CA 0029 1288.
3. If liquor is to be sold, distributed or provided, Liquor Liability coverage in accordance with Section 6-21 of the Illinois Liquor Control Act.

B. Minimum Limits of Insurance

The Grantee shall maintain limits no less than:

1. General Liability: \$3,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location using endorsement CG 25 04 11 85 or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage including coverages for owned, hired or non-owned vehicles as applicable.
3. If A.3 is applicable, liquor liability limits of \$3,000,000 per occurrence combined single limit.
4. The amount of coverage required hereby may be provided by any combination of primary and excess or umbrella liability insurance policies.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be approved by the Parties.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability, Automobile Liability and Liquor Liability

- a. Park District and the City, and its and their officers, officials, employees, and agents are to be covered as additional insureds as respects: liability arising out of the Premises and/or arising out of activities performed by or on behalf of Grantee. The coverage shall contain no special limitations on the scope of protection

afforded to the Park District and the City, and its and their officers, officials, employees, or agents.
- b. The insurance coverage provided under this Lease shall be primary insurance as respects the Park District and the City, and its and their officers, officials, employees, or agents. Any insurance or self-insurance maintained by the Park District and the City, and its and their officers, officials, employees, or agents shall be excess of the Grantee's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Park District and the City, and its and their officers, officials, employees, or agents.
- d. Coverage shall state that the Grantee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this clause shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Park District.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A: VII and licensed to do business in Illinois. Alternatively, the insurance may be obtained from an intergovernmental self-insurance risk agency or pool.

F. Verification of Coverage

Prior to commencement of the Term, the Grantee shall furnish the Park District with certificates of insurance and with original endorsements, if applicable, effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf

2022 Dome Owner Payment History

Post Date	Description	Amount	Period	Date Created
05/31/2022	HPGL-BUILDING RENTAL	\$ (37,500.00)	Period 05	06/01/2022
06/30/2022	Reclass Dome/HP Field House 4% Sales to Revenue	\$ (10,608.88)	Period 06	07/11/2022
11/29/2022	2022 Rental Fee - HP Sports Dome	\$ (38,625.00)	Period 11	11/29/2022
12/31/2022	Receivable for 4% Dome Fall 2022 Revenue	\$ (11,674.48)	Period 12	02/03/2023

TOTAL PAYMENTS MADE

\$ (98,408.36)

Questions presented at Pre-Proposal meeting with answers.

1. Is the dome conforming with zoning?
To the Park District's knowledge, yes.
2. Is the dome privately owned?
Yes
3. Is the dome owner interested in extending the lease?
Have not had those discussions. They are welcome to bid/propose upon extending the lease. Their current agreement ends April 2024. Per the current lease, direction is to be given by the Park District by January 31, 2024.
4. If that lease license ends, is the owner responsible for removing the dome from the site?
Addendum #1, Item #1 explains termination options.
5. Would the current owner be interested in paying for dome operations?
The Park District is unsure at this time.
6. It is difficult to predict/assume removal costs without certainty of the Park District's decision. It makes it difficult to determine a price.
The Park District Recommends submitting 2 proposals (one includes costs for dome removal, one does not).
7. The area behind the dome, is it included in Lot 3?
13 hole is not part of Lot 3. This property is owned by the Park District as part of a conservation easement that currently allows for a non-developed area to buffer between development of this site and Skokie River Woods.
8. How old is the shell of the dome?
The Park District did not construct the dome; therefore, we do not know the exact age of the dome. We believe it to be at least 25 years old.
9. Is there AC in the dome?
No.

10. What are the lease terms and breakdown of costs between PDHP and City HP? What are the revenue fees and management sharing?

2. Term. Unless sooner terminated in accordance with paragraph 18 of this Lease, the term of this Lease shall be for a term commencing on the later of (i) Closing Date (as defined in the Transfer Agreement), or (ii) January 1, 2019 (the "*Effective Date*") and ending December 31, 2118 (the "*Term*").

3. Annual Rent. The Park District shall pay the City as rent for the Enterprise Property, for each year during the Term, a sum of money equal to the product of the "Revenue Share" (as hereinafter defined) multiplied by the "Net Revenue" (as hereinafter defined). The annual rent shall be payable within thirty (30) days after the Park District has received from its independent auditor its certified report of the Park District's financial statements, including a separate statement of the Net Revenue of the Enterprises for the Park District's prior fiscal year; provided, however, that in recognition and consideration of the benefit derived by the City and the public from the Park District's planning, establishing, managing, operating and maintaining the Enterprise Property and the Enterprises, in the event there is no Net Revenue in a given year, the inability of the Park District to derive any Net Revenue for that year, and inability of the City to receive rent for that year, shall not constitute a default under or breach by the Park District of its obligation to pay rent under this Lease and, accordingly, there shall be no minimum rent required for any part of the Term of this Lease.

4. Net Revenue. For purposes of this Lease, the term "*Net Revenue*" is defined as the positive difference between Revenues and Expenses, as described below:
- a. "Revenues" shall include all revenue derived by the Park District from the use of the Enterprises, including membership fees, season, daily and other admission passes or fees, sales of merchandise, food and beverages, rental of facilities, Dome rental and Park District programs. All money received directly by non-Park District independent contractors, vendors or other third parties performing Park District permitted activities directly to others shall not be considered Revenue; provided, however, that any fees, rents, commission or other monies paid by such persons/entities to the Park District for use of Park District property shall be considered Revenue.
 - b. "Expenses" shall include the actual reasonable and necessary costs and expenses incurred by the Park District in operating, conducting, managing and maintaining the Enterprise Property, including, but not limited to, the following, all related to the operation of the Enterprise Property: all costs and expenses paid by the Park District in connection with actions required or permitted to be taken by the Park District under this Lease; the cost of staff salaries, benefits and expense reimbursement; program expenses; the cost of alterations and maintenance; the cost of goods, equipment and materials; the cost of independent contractor, management and professional services contracts; deductions for refunds, returns

and uncollectible accounts receivable; and the cost of insurance, risk management services, utilities, taxes and other assessments (collectively, the "*Expenses*" and individually, an "*Expense*").

- c. The Parties agree that the Park District shall be paid an annual management fee so long as the Park District is managing and operating the Enterprise Property. During the first five years of the Term of this Lease (the "Initial Management Period"), the annual management fee shall be an amount that is equal to 5% of the annual Expenses; provided, however, that if, at any time during the Initial Management Period, the Park District enters into, or has entered into, an arrangement pursuant to Section 7.c of this Lease to assign the management and operations of the Enterprise Property to another entity, then the Parties shall collectively reevaluate what amount, if any, should be paid as the annual management fee for the remainder of the Initial Management Period after the effective date of the assigned management or operations agreement. In no event shall the annual management fee in any year during the Initial Management Period exceed \$20,000.00. The percentage amount of the annual management fee, if any, after the Initial Management Period shall be determined collectively by the Parties based on performance during such Initial Management Period.
- d. All major or minor Capital Expenses which exceed annual Net Revenues in any year, may be carried over to future years and operate as a charge against future positive annual Net Revenues as set out in Section 5 below. For the purpose of this Lease, "*Capital Expenses*" shall be as defined in Section 8.f below.

5. Revenue Share.

- a. For any year during the Term of this Lease when the Park District has outstanding obligations related to Minor or Major Capital Projects (as defined in Section 8.e and 8.f below, respectively) made at any time to the Enterprise Property or the Enterprises, the Revenue Share shall be equal to 25% of Net Revenues. For all other periods during the Term of this Lease, the Revenue Share shall be equal to 50% of Net Revenues. For confirmation of the Revenue Share for each year of the Term, the Park District shall deliver to the City a certified report, prepared by its independent auditor, of the Park District's financial statements for the Park District's prior fiscal year, which report shall include a separate statement of the Net Revenue of the Enterprises for such fiscal year. Such report shall describe whether the Park District has outstanding obligations related to Minor or Major Capital Projects. For any year in which the Park District has outstanding major and/or minor Capital Expenses and there is a positive annual Net Revenue, without taking into consideration any such major and/or minor Capital Expenses, the City shall receive 25% of said Net Revenue, the Park District 25% of said Net Revenue, and 50% of the said Net Revenue shall be allocated to pay down the outstanding major and/or minor Capital Expenses until such Capital Expenses are paid in full.

11. What are the interfund transfers?

There are no transfers from this cost center.