

## **STERLING MANAGEMENT CONTRACT**

### Request for Proposals

The Town of Natick Board of Selectmen through the then Town Administrator issued a Request for Proposals for Golf Course Management Services specific to Sassamon Trace.

The RFP was issued in accordance with Chapter 30b of Mass. General Laws.

The RFP required all submissions be submitted no later than 2:00 P.M., August 8, 2000.

A pre-proposal conference was included in the RFP on July 18, 2000 at 10:00 A.M.

The proposal under Section I - 11 clearly required a proposer to submit separate sealed envelopes for Part I "NON-COMPENSATION TECHNICAL PROPOSAL FOR OPERATION OF THE NATICK MUNICIPAL GOLF COURSE" and Part II "PRICE PROPOSAL FOR THE OPERATION OF THE NATICK MUNICIPAL GOLF COURSE".

The RFP issue was quite extensive and under Part Four Criteria for Selection covered in detail the evaluation process.

### Management Firm Selection

As required in the RFP, all technical proposals were reviewed and interviews conducted by the Town of Natick Golf Course Oversight Committee and the then Acting Town Administrator Paul Cohen.

The Town received five proposals and based upon interviews conducted in August, the Golf Course Oversight Committee voted to recommend Sterling Management. Reference September 25, 2000 document Memo to Board of Selectmen.

Also attached is a Memo from Paul Cohen to the Board of Selectmen dated September 22, 2000, seeking approval to enter into negotiations with Sterling Management.

The Golf Review Committee during it's interview with Paul Cohen questioned Mr. Cohen on the RFP process and if the fee proposals were opened prior to the selection process.

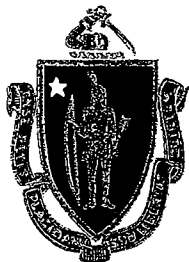
Mr. Cohen responded the Management Firm was selected solely on the basis of meeting the RFP criteria.

Mr. Cohen negotiated any issues relative to fees and stated the Town accepted Sterling's fee proposals as they were within the project budget for such services.

Mr. Cohen also indicated during the interview that the Town of Natick was responsible for the Monitoring and Golf Cart Lease.

As a followup to the Citizen's Report of April 7, 2003, the Town's Administrator Phil Lemnios requested an opinion from the Comm. of Mass. Office of Inspector General concerning the RFP Process and selection of Sterling Management.

A letter was issued on May 1, 2003 from the Office of the Inspector General stating the process does not invalidate the Contract.



# The Commonwealth of Massachusetts

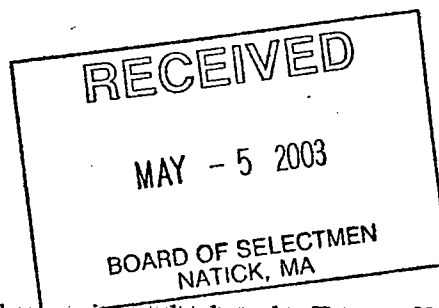
## Office of the Inspector General

GREGORY W. SULLIVAN  
INSPECTOR GENERAL

JOHN W. MCCORMACK  
STATE OFFICE BUILDING  
ONE ASHBURTON PLACE  
ROOM 1311  
BOSTON, MA 02108  
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May 1, 2003

Phillip E. Lemnios  
Town Administrator  
13 East Central Street  
Natick, MA 01760



Dear Mr. Lemnios:

As you know, this Office has been asked to review whether the Town of Natick properly evaluated proposals received by the Town in response to a request for proposals (RFP) for the operation and management of the Natick Municipal Golf Course and whether the Town properly completed a written rationale for the contract award. This Office requested documents relating to the request for proposals (RFP) process conducted between July and September 2000 for management of the Natick Municipal Golf Course. This Office has received full cooperation from the Town in conducting our review.

Based upon review of these documents, it appears that the Town received five proposals in response to its RFP issued in July 2000. The Town determined that the proposal submitted by Sterling Golf Management, Inc. was the only proposal that met all of the minimum evaluation criteria set forth in the RFP. The Town also determined that Sterling Golf Management, Inc. met all of the comparative evaluation criteria for a highly advantageous proposal. Since the Town only received one proposal that met the minimum evaluation criteria, the Town's failure to complete the comparative evaluation phase of the RFP process does not invalidate the contract. M.G.L. c. 30B requires that only proposals which meet the minimum evaluation criteria be evaluated using the comparative evaluation criteria.

In addition, a memorandum to the Board of Selectmen from the Acting Town Administrator, dated September 22, 2000, explains in writing the rationale for the contract award to Sterling Golf Management, Inc. as required by M.G.L. c. 30B, §6(h).

If you have any questions, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth M. Hayward". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Elizabeth M. Hayward

Chapter 30B Counsel



*Town of Natick*  
*Massachusetts*

01760

Philip E. Lemnios  
Town Administrator

April 23, 2003

Elizabeth M. Hayward, Esq.  
Office of the Inspector General  
John W. McCormick  
State Office Building  
Room 1311  
Boston, MA 02108

Dear Ms. Hayward:

Enclosed are the documents you requested regarding the award of a management contract to Sterling Golf Management. Enclosed in this mailing:

- ◆ A copy of the Request for proposal dated July, 2000
- ◆ A variety of documents detailing the decision process
- ◆ Copies of five bid responses received

If you have any questions please do not hesitate to contact me at 508-647-6403. Thank you.

Sincerely,

Philip E. Lemnios  
Town Administrator

Cc: Board of Selectmen



September 25, 2000

To: Natick Board of Selectmen

From: Golf Course Oversight Committee

Re: Selection of a Management Team to Manage the Natick Golf Course

The Natick Golf Course Oversight Committee's first and most important responsibility is to recommend to the Office of the Town Administrator of Natick a management team to run the Natick Golf Course, now under construction. The management team will tend to the daily operation of the golf course beginning with the grow-in phase.

The requirements of the Request For Proposals (R.F.P.) were carefully and explicitly laid out to each proponent so that there would be no misunderstandings as to what the Town of Natick expected of the management company selected to operate the town's precious asset. The committee held five meetings that included extensive interviews with each of the following companies: Arello, Inc., Environmental Golf, Environmental Landscape, Executive Decisions, and Sterling Management, and members of the committee surveyed individuals who played golf or had knowledge of the courses managed by the five proposing companies.

After much discussion, it is the unanimous decision of this committee that the Town of Natick hire Sterling Management to oversee the daily operations of the Natick Golf Course. Their approach was highly professional and they demonstrated an enthusiastic willingness to work with Natick to make the golf course a success. Sterling has taken over the management of several popular golf courses in the Greater Boston Area bringing success to difficult situations. These are courses which due to poor management had deteriorated to a point where play had diminished. We are referring to Putterham Meadows in Brookline, Newton-Commonwealth in Newton, Chelmsford Golf Course in Chelmsford, and Franklin Park in Boston.

It is vital that the Natick Golf Course be managed by an experienced team with both the necessary skills and the resources to back them up so as to assure the Town of Natick that it will have a financially successful facility that golfers will find both enjoyable and challenging. We believe that a partnership with Sterling Management will insure both of these requirements.

We would also like to thank Acting Town Administrator Paul Cohen for all his hard work and assistance to help us reach an informed decision.

Respectfully submitted,



Edward Salamoff, Chairman

David Baier

Barbara Chinetti

Michael Dank

Peter Garland

Golf Course

Town of Natick  
Massachusetts

01760



Frederick C. Conley  
Town Administrator September 22, 2000

TO: Board of Selectmen  
FROM: Paul E. Cohen, Acting Town Administrator  
RE: Golf Course Management RFP

As authorized under the provisions of Chapter 164 of the Act of 1998, I am seeking your approval to enter into negotiations with **Sterling Golf Management, Inc.** of Newton Massachusetts for the management of the Natick Municipal Golf Course for the period of January 1, 2001 through December 31, 2003. I am taking this action upon the advice and recommendation of the Golf Course Oversight Committee.

Five golf course management companies submitted proposals in response to the Town's Request for Proposals. The Golf Course Oversight Committee and I reviewed each of the non-compensation technical proposals and interviewed representatives from each of the golf course management companies. Sterling Golf Management clearly stood above the other four companies, especially with respect to experience in operating municipal golf courses. Sterling has successfully managed and maintained the following municipal golf courses: Newton Commonwealth, Putterham Meadows in Brookline, Chelmsford Country Club, and Franklin Park.

Sterling Golf Management also demonstrated a plan to accurately report and collect all revenues collected at the site, articulated clear plans for junior and community golf programs, and possesses the ability to adhere to the environmentally safe pesticide and fertilization program requirements for the golf course. Based upon a review of the minimum qualifications contained in the RFP, Sterling Golf Management is the only respondent that meets all of the minimum criteria for selection. On Monday evening, Kevin Osgood the President of Sterling Golf Management, Inc. will be present at your meeting to briefly discuss his company's qualifications and to answer any questions that you may have.



PEC  
8/22/2000

Golf Course RFPs

Arellio   Env. Golf   Env. Lan.   Exec. Dec   Sterling

**Minimum Criteria**

Conduct Business in MA	yes	yes	yes	yes	yes
Operate 2 courses 96-00	yes	yes	?	yes	yes
1 course in NE or Mid-Atl	yes	no?	yes	yes	yes
1 course with Municipality	yes	yes	yes	no?	yes
Grow-in during 96-00	yes	yes	?	yes	yes
Superintendent administ IPM	yes	yes	yes	yes	yes

**Operations Experience**

Oprtns: 2 crse NE, 1 mun, 10yrs	?	?	?	yes	yes
Operations: 1 crse, 5 yrs public					
Operations: 1 crse public				yes	
Operations: 0 course public					

**Programs**

Recr, lessons, clinics, jnr golf	yes	yes	yes	yes	yes
Junior golf					
Golf Supplies					
None					

**Grow-In Experience**

2 or more, one 9 hole		yes	?		yes
One 9 hole				yes	
Less than 9 hole					
None	?				

Town of Natick, Massachusetts

CONTRACT FOR  
GOLF COURSE MANAGEMENT SERVICES

NATICK MUNICIPAL GOLF COURSE

THIS AGREEMENT, executed this 19<sup>th</sup> day of December, A.D., 2000, by and between the TOWN of NATICK, MASSACHUSETTS, acting through the BOARD OF SELECTMEN, party of the first part, hereinafter called "OWNER" AND STERLING GOLF MANAGEMENT, INC. 212 KENRICK STREET, NEWTON, MASSACHUSETTS 02458 His, her, their, its heirs, executors, administrators, successors, and assigns, party of the second part, hereinafter called "MANAGER."

WHEREAS, the OWNER wishes to retain the services of a qualified, experienced golf course management company to operate a nine hole public access golf course at a site on Route 27 and West Street commonly know as the Natick Municipal Golf Course in the Town of Natick, Middlesex County, Massachusetts, and;

WHEREAS, The OWNER desires to engage the golf course management company to render the professional services described in this Agreement and the golf course management company is qualified and willing to perform such services, and;

WHEREAS, sufficient authority exists in the Natick Town Charter and statute for these purposes and other necessary approvals have been obtained;

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

That OWNER'S "Request for Proposals," issued June of 2000 for said concession, and that MANAGER'S proposal response to said Request for Proposal together with any attachments thereto, is by reference made a part of this AGREEMENT as if it were herein fully set forth. In the event of a conflict between the provisions of such documents, the following order of precedence shall apply: first this

Agreement; second, the Owner's Request for Proposals; and third, the Manager's proposal.

### **SECTION ONE: DEFINITIONS**

The term "gross receipts," as used herein shall be construed to mean the total amount received by or accruing to the OWNER from greens fees and cart rentals only.

The term "Premises" as used herein shall be construed to mean the buildings, improvements, landscape, equipment locations, structures, facilities, walkways, cart ways, and all areas related to the operation of subject concession and being that area depicted in Exhibit "A", attached hereto and made a part hereof.

### **SECTION TWO: TERMS OF AGREEMENT**

#### 2.1

OWNER covenants and agrees to allow free ingress and egress to MANAGER through and over the premises, and being that area known as the Natick Municipal GOLF COURSE, TOWN OF NATICK, MIDDLESEX COUNTY, MASSACHUSETTS, for the purpose of management, maintenance, and operation of a public golf facility and as described herein.

#### 2.2

The term of this AGREEMENT shall be for a term beginning JANUARY 1, 2001 to DECEMBER 31, 2003. It is anticipated that the opening of the golf course for public access play will be between July 1st and August 15th of the Year 2001.

#### 2.3

OWNER covenants and agrees to pay to MANAGER, as compensation for course management services, a flat fee sum as described in the attached document entitled "FORM C Natick Municipal Golf Course Management & Operations. Monthly payments shall be due and payable within ten (10) days after the end of each month of each year that this AGREEMENT is in force.

#### 2.4

MANAGER agrees to complete and submit for each calendar year a reviewed financial statement of MANAGER'S operation. Said financial statement shall be submitted no later than

MARCH 20th of the year following the conclusion of each calendar year of operation. The financial statement shall include, but not be limited to a record of rounds of play, and an income and expense statement by detailed category. Any financial records pertaining to this AGREEMENT or operations under or by this agreement, are subject to audit by the OWNER. OWNER reserves the right to request audited financial statements from the MANAGER'S operation if it deems necessary.

#### 2.5

OWNER and MANAGER mutually agree that there will be no adjustment of the rental due under this AGREEMENT except as follows:

In the event the premises are substantially damaged or destroyed, the AGREEMENT may be terminated and all liability for future compensation shall cease, or may be suspended, at the discretion of OWNER in accordance with SECTION TWO, Paragraph 12.

#### 2.6

Insurance policies, performance guaranties, any and all documents, reports, and other items which may be required for the operation and management of this concession shall be promptly submitted by MANAGER to the OWNER at the times herein or hereafter specified.

#### 2.7

This AGREEMENT has been established to provide a service, or services, to the citizens of the TOWN OF Natick. MANAGER'S failure to comply with various provisions of this AGREEMENT may cause a loss of services to said citizens and visitors, and also may cause untimely delays in the administration of this AGREEMENT, thereby depriving OWNER of the agreed upon services and/or a loss of revenue. MANAGER'S failure to comply with provisions of this AGREEMENT will subject MANAGER to a progressive system of liquidated damages, as described below.

#### A. Category 1 - Less Serious Violations

1. Violations of the below listed provisions of the AGREEMENT are considered to be of a less serious nature, but may result in untimely delays in the

administration and/or renewal of the AGREEMENT and in loss of or inappropriate services to the using public at the golf course facility:

SECTION TWO - Paragraphs 4, 8, and 12.

SECTION THREE - Paragraphs 3, 4, 6, and 15.

2. The parties hereto agree that the loss incurred by OWNER for repeated violations of the above listed provisions of the AGREEMENT shall be as follows:

If MANAGER violates any of the above stated provisions of the AGREEMENT, MANAGER shall be sent a written notification stating which provision was violated and a date by which said violation must be corrected. If MANAGER has not corrected the violation by the stated date, MANAGER agrees to pay the following as liquidated damages: The payment for liquidated damages for failure to comply with the AGREEMENT and written notice thereof, shall be \$1,000.00. If, at the end of a seven day period from the stated date of the correction, or if the violation is repeated, either of which shall constitute an additional violation, MANAGER agrees to pay an additional sum of \$1,500.00 as additional liquidated damages.

B. Category 2 - More Serious Violations

1. Violations of the below listed provisions of the AGREEMENT are considered to be of a more serious nature, and which will result in a loss of revenue to the OWNER, loss of services to the using public at the golf course facility, or damage to OWNER'S property which may necessitate the expenditure of OWNER'S funds for repairs:

SECTION TWO - Paragraphs 9, 14, 16, and 18.

SECTION THREE - Paragraphs 2, 5, 11, 13, and 14.

SECTION FOUR - All Paragraphs.

SECTION FIVE - Paragraph 2.

2. The parties hereto agree that the loss incurred by OWNER for repeated violations of the above listed provisions of the AGREEMENT shall be as follows:

If MANAGER violates any of the above stated provisions of the AGREEMENT, MANAGER shall be sent a written

notification stating which provision was violated and a date by which said violation must be corrected. If MANAGER has not corrected the violation by the stated date, MANAGER agrees to pay the following to OWNER as liquidated damages:

The payment for liquidated damages for failure to comply with the AGREEMENT and written notice thereof, shall be \$1,500.00. If, at the end of a seven day period from the stated date for correction, the violation still has not been corrected, or if the violation is repeated, either of which shall constitute an additional violation, MANAGER agrees to pay an additional sum of \$2,500.00 as additional liquidated damages.

C. All liquidated damages required by this subsection 2.7 must be paid within thirty (30) days of written notification from OWNER to MANAGER.

D. This AGREEMENT may be terminated by OWNER at its sole discretion if compliance has not been obtained after two (2) sums for liquidated damages have been assessed for the same violation, not necessarily within the same year. OWNER may opt to invoke the greater of the two penalties for a subsequent violation of the same specified paragraph prior to termination.

E. This provision in no way constitutes a waiver of MANAGER'S obligation to comply with the above stated or any other provisions of the AGREEMENT, or a waiver of OWNER's full range of rights and remedies hereunder including termination of the AGREEMENT.

C. Category 3 - Violations warranting Contract Termination

1. Violations of the below listed provisions of the AGREEMENT are considered to be of the most serious nature, and which will result in a loss of revenue to the OWNER, loss of services to the using public at the golf course facility, or damage to OWNER'S property which may necessitate the expenditure of OWNER'S funds for repairs:

SECTION TWO - Paragraphs 6, 10, 13, 15, and 17.

SECTION THREE - Paragraphs 1 and 8.

SECTION FIVE - Paragraph 1.

2. The parties hereto agree that the loss incurred by OWNER for repeated violations of the above listed provisions of the AGREEMENT shall be as follows:

If MANAGER violates any of the above stated provisions of the AGREEMENT, MANAGER shall be sent a written notification stating which provision was violated and a date by which said violation must be corrected. If MANAGER has not corrected the violation by the stated date, OWNER reserves the right to terminate without further notice the AGREEMENT with MANAGER.

2.8

It is fully and mutually understood that MANAGER shall charge such prices and rates as are set by the OWNER; that all other charges by MANAGER to the public are subject at all times to the review and approval of the OWNER; and that either party may request of the other consideration in an adjustment in prices and rates. Prices and rates must be prominently posted by MANAGER, for public inspection on the premises. Price changes or prices of items or services added during the operating season must be approved by OWNER, in writing, prior to their taking effect in any transactions.

2.9

MANAGER agrees to keep proper and complete books and records of accounts of its operations. Internal control procedures implemented by MANAGER must meet with OWNER'S approval and be adequate to insure that all revenue is accounted for and recorded. MANAGER shall comply with all Massachusetts State Sales Tax regulations and guidelines.

MANAGER agrees to permit authorized agents of OWNER, upon OWNER'S request, to examine and audit the point-of-sale documents, books, and records without any delay upon MANAGER'S part. Said point-of-sale documents, books, and records shall be retained by MANAGER for a period of three (3) years beyond the termination of this AGREEMENT, or until disposal is approved by OWNER whichever comes first.

2.10

MANAGER covenants and agrees to furnish and keep in full force and effect, during the term of this AGREEMENT, a performance guaranty in the amount of \$250,000 made payable to the Town of Natick either by cash deposit, surety bond,

or other form acceptable to OWNER, conditioned for the full performance of all of the covenants and stipulations in this AGREEMENT. MANAGER covenants and agrees to furnish and keep in full force and effect, during the term of this AGREEMENT, a labor and materials payment bond which shall obligate MANAGER and its surety and their successors and assigns to the Town of Natick to pay for labor, materials and equipment regarding the work to be performed by MANAGER under this AGREEMENT.

#### 2.11

In the event of damage to, or destruction of the premises, or a portion thereof so substantial that the remainder is not economically operable for the purposes herein contemplated, by fire, flood, windstorm, or any other hazard, operation under the AGREEMENT, in the discretion of the OWNER, may be

- (a) suspended until the portions thereof so destroyed or damaged are rebuilt, repaired or replaced, or
- (b) terminated.

In the event such damage or destruction is less substantial so that the remainder of the premises are economically operable, operation shall continue to the extent practical while restoration is under way.

#### 2.12

MANAGER shall, at its sole expense, provide insurance and maintain valid said insurance during the term of this AGREEMENT and during anytime MANAGER occupies the premises, which shall include anytime at which MANAGER has anything stored within the premises. Said insurance shall protect the premises, including the buildings within the premises, and cover all losses which may occur as a result of fire, lighting, windstorm, hail, ice, explosion, or flood. Said insurance shall be from a source pre-approved by OWNER, in an amount equivalent to the replacement cost of the OWNER'S physical facilities referenced by this AGREEMENT. Said insurance shall be made payable to the Town of Natick and the policy or policies submitted to OWNER prior to MANAGER taking occupancy of the leased premises and prior to or upon the expiration of any current insurance policy.

2.13

INSURANCE REQUIREMENTS:

1. The MANAGER will serve in the capacity of an independent contractor in this project and will maintain at least as hereinafter set forth so as to protect it, the Town of Natick, and Alexander P. Dowse and Jonathan P. Dowse of 100 North Main Street, Sherborn, from any and all claims for personal injury and property damage, and from all claims under Workmen's Compensation Acts including death arising out of the operation of this agreement, for the entire pendency of this project.
2. A commercial general liability insurance policy with the following limits of coverage: One Million dollars (\$1,000,000) each occurrence, Three Million dollars (\$3,000,000) aggregate of all claims per occurrence.
3. Environmental Liability Insurance with a limit of \$3,000,000.00.
4. A comprehensive automobile insurance policy with a combined single limit of One Million Dollars (\$1,000,000.00)
5. Worker's Compensation Insurance as required by the then current laws of the Commonwealth of Massachusetts and employer's liability insurance with the limits of One Million Dollars (\$1,000,000.00) The employer's liability requirement maybe satisfied by umbrella liability insurance.
6. Excess Liability Insurance, Umbrella Form, Two Million Dollars (\$2,000,000.00) each occurrence and two million dollars aggregate. Such insurance shall be following form, which shall provide coverage over Commercial General Liability Insurance, Employer's Liability under Workers Compensation, and Automobile Liability Insurance.
7. All of the insurance must be issued by an insurer licensed and authorized to do business in Massachusetts and which maintains an office within Massachusetts.
8. The MANAGER shall provide to the Town of Natick certificates of such insurance coverage prior to the execution of this Agreement. Each policy of liability

insurance other than employer's liability under workers' compensation shall name the Town of Natick and Alexander P. Dowse and Jonathan P. Dowse of 100 North Main Street, Sherborn, as additional insurers. Each certificate shall provide for notice to the Town of Natick of not less than thirty (30) days prior to the change or cancellation. In the event that any insurance required by this agreement is modified or cancelled the MANAGER shall promptly notify the Natick Board of Selectmen in writing, shall promptly obtain insurance to comply with this Agreement and shall provide to the Town of Natick certificates of such insurance coverage within seven (7) days of obtaining the same. Insurance certificates required by this Agreement shall be sent to the Town Administrator, Town of Natick, Town Hall, 13 East Central Street, Natick, MA 01760.

9. Failure of the MANAGER to provide and maintain such insurance in effect during the term of this Agreement and any extension or renewal thereof shall be a basis for termination of this Agreement by the Owner, upon written notice to the Manager.

2.14

OWNER shall be immediately advised by MANAGER should any of the aforementioned insurance policies be canceled by MANAGER or the insurance company, prior to the expiration date indicated on said policy.

2.15

MANAGER covenants and agrees to provide, at its sole expense, all equipment, supplies, materials, merchandise, transportation, and labor necessary for the satisfactory operation of the said business, except for any particular items of which specific mention is made in this AGREEMENT.

2.16

OWNER covenants and agrees to pay promptly all charges incurred, for the term of this AGREEMENT, for utilities including, but not limited to the following; water for clubhouse and maintenance garage, irrigation water, electricity for clubhouse and maintenance building, electricity for recharging of golf cars, and garbage removal, MANAGER is responsible for payment of telephone services and fuels (gasoline, diesel fuel) for MANAGER'S golf course maintenance equipment, unless otherwise specified herein.

2.17

MANAGER is responsible for the collection of all debris, garbage, litter, and trash from within the premises. MANAGER'S garbage removal operation is subject to OWNER'S approval.

2.18

MANAGER understands and agrees that there are may be several Rights-of-Way granted across the premises in the future. Any development and all operations within the premises must be compatible with current or hereafter granted Rights-of Way.

### **SECTION THREE: OPERATIONAL CONDITIONS**

3.1

MANAGER shall have the right and obligation to operate, manage, and maintain all of the properties and facilities according to the terms and conditions herein set forth during the period of this AGREEMENT, and to sell merchandise and provide services ordinarily found at a public golf course. Any service(s) offered must be in accordance with the philosophy of the Town of Natick and any services(s) not specifically mentioned in this AGREEMENT must have prior written approval of OWNER.

3.2

MANAGER agrees to operate and render courteous, efficient, and satisfactory service to the public, as approved by OWNER. The minimum acceptable season of operation is daily from April 1st to November 25th. MANAGER may operate on additional days during the term of this AGREEMENT, if pre-approved by OWNER. If the OWNER requires the MANAGER to keep the clubhouse open for golf or other purposes after November 25 through March 31, the OWNER will negotiate an acceptable fee to pay the MANAGER for this additional service.

A schedule indicating hours of operation shall be submitted by MANAGER to OWNER annually for approval of OWNER. Said schedule shall be submitted on or before January 31st of each year. MANAGER shall operate according to that schedule upon receipt of written approval for such from OWNER. MANAGER shall prominently post hours of operation. MANAGER may operate for additional hours during the season, only with prior approval of the OWNER.

3.3

MANAGER agrees to serve all carry-out food and beverages in disposable paper or plastic containers, or any returnable containers other than glass. MANAGER agrees not to offer for carry-out sales any product in or with a glass container.

3.4

MANAGER agrees any "Flip-top" cans served or sold shall be of the type that retain the opening tab of the can.

3.5

MANAGER agrees to comply with all laws, rules, regulations, and orders of the State of Massachusetts, the Town of Natick, and other governmental bodies, now in effect or hereafter enacted, adopted or promulgated.

3.6

MANAGER agrees to keep the premises mowed and trimmed, clean, sanitary, and in a presentable condition at all times throughout the term of the AGREEMENT.

3.7

MANAGER has examined and knows the condition of the OWNER'S premises and equipment, and has received the same in reasonably good repair, and further agrees that no misrepresentation as to the condition thereof have been made by OWNER, prior to or at the execution of this AGREEMENT.

3.8

MANAGER shall have the right to use the premises only for the described purposes and only in keeping with the intent of this AGREEMENT. MANAGER understands and agrees that any deviation from said intent, or conflict with, or between any provisions of this AGREEMENT shall be subject to the OWNER'S review and its written direction for resolution.

3.9

MANAGER agrees not to make any alterations, deletions, or additions in or to the premises without prior written approval of OWNER. In addition, MANAGER agrees not to deface or mutilate the walls, floors, ceiling, equipment, landscaping, structures, or other parts of the premises in any manner, nor to permit any practice or acts injurious to the premises, or which may affect the insurance on the

premises, or which may be contrary to law. OWNER will not permit MANAGER to place any signs or placards on the exterior walls of the structure, or upon the land within the premises, except by written consent or directive of the OWNER.

### 3.10

MANAGER agrees that all permanent improvements become the property of OWNER at the termination of this AGREEMENT, for any reason and at any time, free of any and all encumbrances, unless otherwise specified herein. Said permanent improvements shall become a part of the premises, and shall be managed according to all provisions of this AGREEMENT upon completion of construction or installation.

### 3.11

MANAGER shall be responsible for all maintenance to premises, including but not limited to; maintaining all structures, the buildings, equipment, landscaping, and property therein, in good repair, at OWNER'S expense. In addition, MANAGER shall be responsible for any repairs to equipment, structures, landscaping, the buildings, and all other parts of OWNER'S property within the premises resulting from any act of negligence, vandalism, normal wear and tear, or lack of due care on the part of MANAGER and its employees.

### 3.12

MANAGER covenants and agrees that, if the maintenance and/or repair work on the premises, as herein specified, are not accomplished to the satisfaction of OWNER, OWNER may, at its option, accomplish the work with its forces. In that event the MANAGER shall reimburse the OWNER for the cost of such work.

### 3.13

MANAGER agrees to periodic maintenance inspections of said premises with the OWNER's representatives. OWNER shall conduct inspections at least quarterly each calendar year. MANAGER understands that the OWNER expects MANAGER'S maintenance to be consistent with other first class public golf course operations found in the greater Boston area. MANAGER agrees to correct any defects found within a reasonable amount of time, but in no event more than fifteen (15) days, unless said defects, as determined by OWNER, would result in a condition hazardous to the using

public, employees, or facilities, in which case such defects shall be corrected immediately.

3.14

MANAGER agrees to employ only competent and orderly employees, who will keep themselves neat and clean and accord courteous and competent treatment and service to all guests and patrons. Any uniforms to be worn by persons working on the premises, shall be of a type as are ordinarily worn by employees doing like work in similar places of business, and are subject to the pre-approval of OWNER.

3.15

MANAGER understands and agrees that OWNER reserves the right to prohibit the sale or rental of any merchandise or service which it deems objectionable; or beyond the scope of that necessary for adequate service to the public under this AGREEMENT.

3.16

MANAGER may store its equipment for this concession operation on or in the premises during non-operating periods, provided this AGREEMENT is not terminated. If MANAGER should store its equipment on or in the premises, it is fully and mutually understood by MANAGER that said storage shall be at the MANAGER'S sole risk and that OWNER shall assume no obligation or responsibility for safeguarding MANAGER'S equipment from any acts such as; vandalism, loss, flood, theft, damage, or acts of God.

3.17

It is fully understood by the parties hereto that the OWNER does not guarantee any number of visitors to the golf course and accepts no responsibility for lack of same for any reason other than may be herein set forth.

3.18

MANAGER agrees to remove all personal property from the premises at the termination of this AGREEMENT. Any property not removed within fifteen (15) days after AGREEMENT termination shall be considered as abandoned, and OWNER may dispose of the same without being accountable to MANAGER.

3.19

MANAGER agrees upon termination of this AGREEMENT, by expiration or otherwise, to return all of the premises to

OWNER in good condition from first-class maintenance, non-negligence, accidental loss or damage, and ordinary wear and tear accepted. Dirt is not considered ordinary wear and tear. Also, upon termination of this AGREEMENT, the following conditions shall be complied with, before MANAGER will be released from its obligation.

- A. All payment of compensation, any other amounts or reports due MANAGER by OWNER must be made.
- B. All debris, rubbish, and discarded items from the premises must be removed from the golf course premises by MANAGER.
- C. The entire premises, equipment, and facilities therein must be clean and operable.
- D. All deficiencies found in the final inspection of the premises by OWNER have been corrected by MANAGER.

### 3.20

OWNER and MANAGER agree that by mutual consent, this AGREEMENT may be amended in writing from time to time as may be required to protect the premises, or to add to the comfort and convenience of MANAGER'S operations, or to expand upon MANAGER'S existing operation under this AGREEMENT if mutually agreed to in writing by OWNER and MANAGER.

### 3.21

Misrepresentation of products or services for sale or rent, unfair business practices, or illegal activities within the premises shall be sufficient cause for OWNER to terminate this AGREEMENT.

## **SECTION FOUR: SPECIAL CONDITIONS**

### 4.1

MANAGER agrees to equip, operate, and maintain the golf course consistent with public golf course practices, including the rental of electric golf cars, pull carts and rental clubs.

### 4.2

MANAGER agrees to submit a detailed and thorough first year Operations and Maintenance Program in writing, to OWNER for approval within five (5) weeks after the execution of this AGREEMENT.

4.3

MANAGER further agrees to submit an annual Maintenance Program, in writing, to OWNER for approval on or before February 15 of each year of this AGREEMENT. Said program shall be detailed and thorough and shall include but is not limited to: number and types of employees, soil testing, fertilization plan, IPM plan, mowing schedule, irrigation schedule, aerification schedule, insect and weed control plans, maintenance of accessory equipment such as benches, distance markers, trash cans and water coolers. Said program is subject to OWNER's approval and standards.

4.4 MANAGER shall be fully responsible for and comply with all provisions in the Order of Conditions issued by the Natick and Sherborn Conservation Commissions. All provisions set forth in the Orders for the protection of the environment must be adhered to by the Manager including but no limited to the IPM plan and maintenance on stormwater control structures.

4.5

MANAGER shall operate the Snack Bar and Pro Shop on all days the golf course is open with operating hours to be mutually agreed upon between the OWNER and MANAGER.

4.6

MANAGER shall maintain and have available for rent a minimum of ten (10) pull carts and five (5) sets of clubs. MANAGER must offer golf instruction.

4.7

MANAGER shall be fully responsible for seeing that the maintenance building, Pro Shop and Snack Bar building are equipped with smoke detectors and fire extinguishers provided by the OWNER. MANAGER shall maintain said equipment in operable condition at all times.

4.8

MANAGER shall cease and desist from the use of any stationery, brochures, postcards, displays, and any advertising or other similar matter used in connection with the operation of the premises if any such items are found inappropriate or reasonably objectionable by the OWNER. Printed materials or signs used by MANAGER inside and outside the golf course shall acknowledge the Town of Natick to the satisfaction of OWNER.

4.9

MANAGER shall not install or provide video games, jukebox, pinball machines, any table games, board games, darts, billiards, games of chance, electronic games, or any amusement of a similar nature unless pre-approved in writing by OWNER. MANAGER should not anticipate such approval.

4.10

OWNER shall keep one complete set of keys to all lockable areas within the premises. Said keys shall be used only in emergencies, and shall be the responsibility of the Town Administrator of the Town of Natick.

4.11

MANAGER shall be responsible for keeping all building fire exits free from blockage.

4.12

MANAGER agrees to and is responsible for cleaning any exhaust systems within the snack bar.

4.13

MANAGER shall insure that all lights and fixtures suspended over exposed food or equipment shall be of the safety type or otherwise constructed to protect food products and equipment from damage by breakage.

4.14

MANAGER agrees that all ice served or sold by MANAGER shall meet the bacteriological and chemical standards for drinking water.

4.15

MANAGER is responsible for adequate measures for the control of arthropods and rodents which the OWNER deems a public health hazard.

4.16

MANAGER shall provide all necessary maintenance and cleaning supplies and equipment, as well as toilet paper, paper towels, hand soap for the public and all other supplies as needed within the premises.

4.17

MANAGER agrees that all barstools, chairs and tables within the premises, are in excellent condition at all times and appropriate to the setting.

4.18

MANAGER must be present to receive and properly store all deliveries to include but not limited to supplies, food, and equipment.

4.19

OWNER shall install a telephone to handle inquiries by the public and emergencies. The telephone number shall be listed, as soon as practical, in the local telephone directory, as Natick Municipal Golf Course or as otherwise pre-approved by OWNER.

4.20

MANAGER shall be aware of and comply with all applicable current federal, state and local laws, ordinances, rules and regulations.

4.21

OWNER may provide, through on-site instructions, suggestions, and inspections, the standards for safety and health which MANAGER shall meet for housekeeping and cleaning throughout the premises.

#### **SECTION FIVE: LEGAL REQUIREMENTS**

5.1

MANAGER agrees not to assign this AGREEMENT, in whole or part, or sublet any part of the premises, without first obtaining the written consent of the OWNER, and in the event the OWNER consents to any such agreement or sublease, the MANAGER shall remain primarily liable for the conditions herein provided, unless otherwise expressly provided in the written consent of the OWNER. No assignment or subletting made by the MANAGER, without consent herein before provided for, shall vest any right or interest whatsoever in the assignee or subMANAGER in or to the premises.

5.2

MANAGER agrees to maintain order among its customers and be responsible for safeguarding the health and property of its

customers as may be required by law, and shall observe and require its customers to observe all laws and regulations of the Town of Natick and the State of Massachusetts. MANAGER shall not permit any person or persons who may be visibly intoxicated, or under the influence of drugs in or about the premises, but the MANAGER'S obligation in this respect shall be limited to a reasonable request to offenders to cease such violations and remove themselves from the premises. The above stipulations shall not impose upon the MANAGER the duty and obligation of exercising powers and duties of a peace officer.

### 5.3

It is hereby fully and mutually understood and agreed that no rights are granted in this AGREEMENT which shall in any way be so construed as to impair the powers, privileges or duties of OWNER or its representatives in the execution of the laws of the Town of Natick and the State of Massachusetts now in force or hereafter enacted or adopted with reference to the protection, maintenance, utilization or development of the leased premises.

### 5.4

MANAGER shall at all times hereafter indemnify and save harmless the Town of Natick from and against any and all detriment, damage, loss, claims, demands, suits and expenses not herein provided, for which the Town of Natick may suffer, sustain or be subjected to, directly or indirectly, by reason of the operation, management or exercise of any of the provisions herein. See also Section I-24 of the Town of Natick Request for Proposals, incorporated herein by reference.

### 5.5

If MANAGER becomes insolvent, fails in business, is adjudicated a bankrupt, files a petition in bankruptcy or for a receiver, or for reorganization or an arrangement under any provision of bankruptcy law, or has a receiver appointed by the court; or a creditor of MANAGER attaches or executes a judgment against MANAGER'S equipment or materials or on collateral; and the MANAGER cannot demonstrate or prove ability to continue to operate in compliance with the conditions of this AGREEMENT, then the OWNER may terminate this AGREEMENT upon written notice to the MANAGER and, in that event, all compensation reserved for the remaining term of this AGREEMENT shall be withheld

by OWNER and the premises shall be immediately surrendered to the OWNER.

5.6

MANAGER hereby waives the usual notice to quit and agrees to surrender said premises at the expiration of said term, or the termination of this AGREEMENT without any notice whatsoever, and upon proceeding instituted for the recovery of said premises, the MANAGER waives the benefit of all appraisement, stay and exemption laws, the right of acquisition on real estate and all bankruptcy or insolvency laws now in force or hereafter passed.

5.7

Upon breach of any of the conditions of this AGREEMENT by MANAGER, MANAGER hereby confesses judgment in favor of OWNER as herein above provided and waives the benefit of all appraisement, stay and exemption laws of the State of Massachusetts as well as the right of acquisition on real estate and authorizes and empowers OWNER to terminate the AGREEMENT and to collect as well, Attorney's Commission of fifteen percent (15%).

5.8

MANAGER hereby authorizes the Attorney of the Town of Natick, or an attorney of any Court of Record, to appear for him upon breach of the conditions of this AGREEMENT, and to enter an amicable action of ejectment and confess judgment therein for the premises herein described, and MANAGER does hereby authorize said Attorney to issue a writ of possession without leave of court.

5.9

This Agreement shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the services to be provided.

Insurance certificates required by this agreement shall be sent to the Town Administrator, Town of Natick, Town Hall, 13 East Central Street, Natick, MA. 01760

5.10

This AGREEMENT shall be governed by and construed in accordance with Massachusetts law. This AGREEMENT may be amended only by written consent of the parties.

5.11

This AGREEMENT shall be binding upon, and shall inure to the benefit of, the successors in interest of the parties.

5.12

If any provision of this AGREEMENT is determined to be invalid or unenforceable by final judgment of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.

5.13

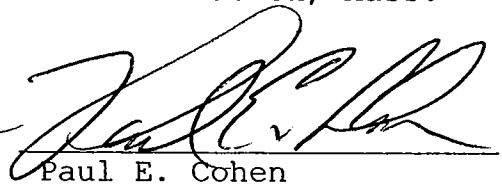
This AGREEMENT shall be governed by and construed in accordance with Massachusetts law. IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first appearing above.

Sterling Golf Management Inc. Town of Natick, Mass.

BY

  
Kevin F. Osgood  
President

BY

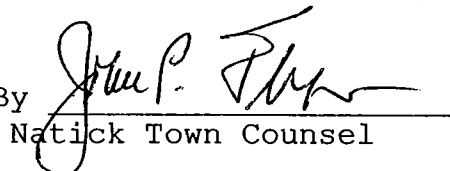
  
Paul E. Cohen  
Acting Town Administrator

212 Kenrick Street  
Newton, MA 02458

Natick Town Hall  
13 East Central Street  
Natick, MA. 01760

APPROVED AS TO LEGAL FORM

By

  
Natick Town Counsel

**FORM C Natick Municipal Golf Course Management & Operations**

**PROPOSED CONTRACT MANAGEMENT FEE**

For the premises known as the Natick Municipal Golf Course, Natick, Massachusetts, we the undersigned, duly authorized to bind our company,

**Sterling Golf Management, Inc.**

for the purpose of managing the golf course facility we hereby agree to accept as compensation for all services rendered as per the terms of our proposal periodic payments from the Town of Natick of a flat fee amount for each year that this agreement is in force. (January 1, 2001 to December 31, 2003)

Grow-In Period  
January 1, 2000 to  
Opening Day  
Proposed Contract Fee:       \$    125,000

Opening Day to 12/31/2001  
Proposed Contract Fee:       \$    259,300

1/1/2002 to 12/31/2002  
Proposed Contract Fee:       \$    429,050

1/1/2003 to 12/31/2003  
Proposed Contract Fee:       \$    443,770

  
Signature

**President**  
Company Title

**August 4, 2000**  
Date

NOTE: No price information should be included in any part of the technical proposal. Including price information in the technical proposal will disqualify your proposal.

**This Form C must be placed in a separate sealed envelope**