



**STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF PARKS AND FORESTRY**

## **Request for Proposal**

# **Management/Operation of Centerton Golf Course**

**Pittsgrove Township, Salem County**

**Release Date: December 20, 2018**

**Mandatory Pre-Bid Meeting and Site Visit,  
and Written Question  
Cut-Off Date: January 9, 2019**

**Bid Submission Due Date: February 7, 2019**

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## **1.0 GENERAL INFORMATION FOR BIDDERS**

### **1.1 Purpose and Intent**

This Request for Proposal (RFP) is issued by the New Jersey Department of Environmental Protection (“Department”), Division of Parks and Forestry (“Division”), on behalf of the State of New Jersey (the “State”). The purpose of this RFP is to solicit proposals from qualified bidders to operate, maintain, and manage the Centerton Golf Course (“Golf Course Property”) located in Pittsgrove Township, Salem County, New Jersey. The Department is seeking an Operator that has experience and knowledge in operating golf courses, is financially stable, and shows strength in customer service commitment and employee performance. The winning bidder will enter into a Five (5) year Operating Agreement with the Department and will have the potential to renew the Operating Agreement for an additional Fifteen (15) year term. As consideration for entering into the Operating Agreement, the successful bidder shall propose to pay the State a minimum annual rental amount equal to the greater of Sixty-Six Thousand Dollars and Zero Cents (\$66,000.00) or Ten percent (10%) of Total Annual Gross Revenue during each said Calendar Year.

It is the goal of the State to continue the safe and efficient operation of the Golf Course Property. Thus, the Department intends to enter into an agreement with a capable Operator that will both operate and develop the Golf Course Property in accordance with Federal, State, and local laws and the terms set forth in the Operating Agreement. The successful bidder will have daily control over the Golf Course Property and will be responsible for its full-time operation, as well as its physical and commercial development.

All bidders shall submit as part of their bid proposals an Operational Management Plan, setting out how they propose to operate, manage, develop and improve the Golf Course Property. The winning bidder will be the qualified, experienced bidder whose proposal is most responsive to the State’s goal and whose plan provides a realistic means of generating revenue for the State.

The intent of this RFP is to award a contract, in the form of an Operating Agreement consisting of Two (2) Terms not to exceed Twenty (20) years, to a responsive bidder whose bid conforms to the requirements of this RFP and is most advantageous to the State, price and other factors considered.

### **1.2 Background**

The State, acting through the Department of Environmental Protection, Division of Parks and Forestry, is requesting proposals for the operation of the State-owned Centerton Golf Course (Centerton) located in Pittsgrove Township, Salem County.

Centerton is an 18-hole public golf course with a driving range. The entire Golf Course Property consists of approximately 225 acres shown on the map attached hereto and incorporated by reference as Exhibit A, with the actual playing course encompassing about 55 acres. The Golf Course Property is designated as Block 1801, Lot 1 on the Tax Map of Pittsgrove Township, Salem County, New Jersey. Centerton was established in 1962 and designed by

architect Ed Carman. Over the past five (5) years (2013 through 2017) the golf course has average 23,463 rounds of golf.

The State purchased Centerton in 2004 through the Department's Green Acres Program. Since 2009, the current Operator has been managing Centerton as a public golf course through an Operating Agreement executed with the Department, that will expire on February 8, 2019.

### **1.2.1 Excluded Parcel: Banquet Hall and Restaurant**

There is a parcel of land in the center of the Golf Course Property designated as Block 1801, Lot 25 on the Tax Map of the Township of Pittsgrove, County of Salem, State of New Jersey that is not owned by the Department and is not part of the RFP and the Operating Agreement. The owner of this parcel (Centerton Real Estate Holdings LLC) operates an event center and restaurant known as The Grove at Centerton. The Grove at Centerton has the following easement on the Golf Course Property: a right-of way easement; four drainage easements; and a septic system easement, copies of which are attached hereto and incorporated by reference as Exhibit B.

### **1.2.2 Structures and Facilities**

There are thirteen (13) buildings on the Golf Course Property, including a clubhouse, patio, attached cart storage building, pump house, maintenance facility, pole barns, sheds, two (2) former residential structures and storage buildings.

The Clubhouse is a one-story frame building and is in fair condition. It contains a pro shop, small office area, and two locker rooms. The building is heated by forced warm air heaters and has central air conditioning. Attached to the clubhouse is a cart storage building that is in fair condition.

There is a structure near the tenth (10<sup>th</sup>) Tee that can be used for a small-scale concession operation to provide food and beverages to the golfer as they pass through.

The maintenance complex includes a number of outbuildings that collectively are in poor condition. The construction of the buildings ranges from pole columns with wood beams, wood purlin, and tin roofing to steel-framed, open-side buildings. During the initial Five-Year Term the successful bidder will be required to demolish and remove all of the buildings and structures identified on the maps attached hereto and incorporated by reference as Exhibit C. Located near the maintenance complex is the pump house building that houses the irrigation pumps and pump controls.

The parking lot on the Golf Course Property was repaved in 2015. The Grove at Centerton (see Subsection 1.2.1 above), along with any subsequent owners of that parcel, has a right-of-way easement which enables the facilities to use the driveway and parking lot on the Golf Course Property. Pursuant to the easement, the owner of The Grove at Centerton property and the owner of the Golf Course Property, the Department, are to share equally the cost of all maintenance and repairs for the parking lot and driveway. The Operator of the Golf Course

Property shall be solely responsible for the Department's share of the cost of repairing and maintaining the parking lot and the driveway.

Atlantic City Electric has a utility easement across the Golf Course Property.

### **1.2.3 Golf Course Conditions**

The Operator will be responsible for the renovation and restoration of the Golf Course Property including but not limited to the greens, tees, fairways, bunkers and cart paths. The maintenance standards shall include programs and procedures that maintains a superior golf course experience as well as enhancing and protecting the environment and the Golf Course Property.

### **1.2.4 Driving Range**

The Driving Range is located across from the Clubhouse and is accessible from the parking lot across an access path through the woods. The driving range is shown on the map of the Golf Course Property attached hereto as Exhibit A.

### **1.2.5 Irrigation System**

The Operator of the Golf Course Property will be responsible for the repair, maintenance and installation of all components for the irrigation system.

### **1.2.6 Water Usage**

Centerton has severely limited water availability. Water allocation currently is permitted on the Golf Course Property through a Water Use Registration issued by the Departments, Division of Water Supply and Geoscience. The Water Use Registration limits water usage to 3.1 million gallons per month. Accordingly, watering of the Golf Course Property will be limited, most likely, to the greens and tees only.

Centerton is located in an area of the State that renders it unlikely to be eligible for a Water Allocation Permit, which would provide greater water usage for the Golf Course Property. The Operator may apply to the Departments, Division of Water Supply and Geoscience for a Water Allocation Permit, but neither this RFP nor the Operating Agreement shall be interpreted as approval for a Water Allocation Permit, nor shall either document serve as a guarantee that such a permit will be granted. The Operator of the Golf Course Property solely shall bear the expense of all water permitting costs and fees, including those associated with the Water Use Registration.

### **1.2.7 Septic System**

The Golf Course Property currently has approval from the local board of health for its septic system, which pumps less than 2,000 gallons of water each day. If the Operator desires a septic system that pumps more than 2,000 gallons per day, it would be required to apply to the Department for a New Jersey Pollution Discharge Elimination System (NJPDES) permit. The

Operator shall bear all costs and fees associated with the NJPDES permit application process and the permit itself.

### **1.2.8 Revenue, and Operating Expenses**

The Operator shall be required to pay all operating expenses (including utilities) and taxes, if applicable. According to information provided by the current Operator, reported revenue and operating expenses over the past five years are identified as:

<u>Year</u>	<u>Revenue</u>	<u>Operating Expenses</u>
2017	\$566,785.00	\$370,760.00
2016	\$630,521.00	\$428,811.00
2015	\$696,995.00	\$413,812.00
2014	\$718,601.00	\$620,746.00
2013	\$625,995.00	\$480,422.00

While bidders should be aware of revenues generated by the Golf Course Property and current operating expenses, it must be recognized that current revenue and expenses are absolutely not considered by the Department to be predictive to future revenue and expenses. Nor are current revenues and expenses to be considered as a guarantee by the Department of any possible future revenue stream. Accordingly, the approximate current revenue and expense figures serve as a guide for bidders and are provided for informational purposes only.

### **1.2.9 Taxes**

In October 2016, an opinion issued by the Tax Court of New Jersey identified that the subject property Block 1801, Lot 1 in Pittsgrove Township, Salem County as exempt from local property taxes. However, all taxes and property tax assessments, if any, arising out of the use and operation of the Golf Course Property shall be the sole responsibility of Operator and shall be promptly paid by Operator when due, regardless of whether such tax or assessment is assessed within or outside a Term of this Agreement. Operator shall provide copies of the notice of any tax and assessment notice received from any government agency, municipality or county to the Department. Payment shall remain a continuing obligation of Operator after any Term of this Agreement and/or the expiration or termination of this Agreement, and Department is authorized to make a demand for payment and take any and all steps to ensure payment. Operator shall furnish to Department within ten (10) days of demand therefor, proof of the payment of any such tax or assessment. Operator's failure to timely pay any tax or assessment or otherwise comply constitutes a material breach of the Agreement subject to Default in accordance with the terms and conditions of the Agreement.

### **1.2.10 Required Services**

During the term of this Operating Agreement, Operator shall manage the day-to-day operations of the golf course, including, but not limited to, handling the collection and deposit of all money, hiring and supervision of all employees, and purchasing of all goods and services consistent with the operation of a public golf facility. Operator also shall be responsible for handling disputes

with third parties, collecting and paying appropriate taxes, obtaining all appropriate permits, and providing accountability to the Department for its activities.

A. Alcoholic Beverages/Annual State Permit

- i. The Operator shall not allow customers and visitors to bring alcoholic beverages onto the Golf Course Property.
- ii. A Liquor License is NOT included as part of the Request for Proposal or the Operating Agreement and the Golf Course Property/Clubhouse does not include structures or facilities to support the service of food and alcoholic beverages.
- iii. The Operator shall be allowed to secure an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control, for the service and consumption of alcoholic beverages in the Clubhouse and mobile food/beverage cart. Because the Golf Course Property is State-owned land, the successful bidder must obtain the license from the New Jersey Division of Alcoholic Beverage Control and not from the local municipality. Prior to submission to the New Jersey Division of Alcoholic Beverage Control, the successful bidder must submit plans and obtain the Department's prior written approval of the facilities that will be utilized for the service and consumption of alcoholic beverages and food on the Golf Course Property.
- iv. Nothing in the Request for Proposal or any of the attachments hereto shall be construed as a guarantee that the successful bidder shall obtain an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control. The successful bidder is still expected to perform under this Request for Proposal regardless of its ability to obtain an Annual State Permit. Failure to obtain a liquor license does not negate or void this Request for Proposal or the resulting Operating Agreement in any way and the successful bidder shall be expected to perform under the Operating Agreement.
- v. If the Operator obtains an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control, it will be required to directly provide the services at the Golf Course Property. **The Department will not permit the Operator to subcontract the alcoholic beverage service on the Golf Course Property. Consumption of alcoholic beverages on the Golf Course Property provided by any entity other than the Operator is prohibited and shall be a material breach of the Operating Agreement subject to suspension or termination in accordance with Paragraph 29 of the Operating Agreement.**



B. Food and Non-Alcoholic Beverages

Operator shall be permitted to offer for sale prepared food, snacks, candy and non-alcoholic beverages from the Clubhouse, patio, tenth (10<sup>th</sup>) Tee area and a mobile food/beverage cart.

C. Fees and Memberships

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

D. Reservations Systems and Tournaments

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

**1.2.11 Personal Property, Equipment, Golf Carts and Pro Shop**

A. Operator shall be responsible for providing and maintaining all equipment, supplies and golf carts necessary for the successful management and operation of the golf course. The Department does not own any of the equipment or golf carts. The Operator shall be responsible for providing all equipment, supplies and golf carts necessary to operate the Golf Course Property. Department acknowledges that Operator may in the ordinary course of its business possibly enter into leases for equipment used for the operation of Operator's business at the Golf Course Property. Operator shall provide Department with at least five (5) business days prior written notice of the material terms and conditions of any such equipment leases prior to entering into same.

B. Operator may operate a Pro Shop on the Golf Course Property. Sales at the Pro Shop may include, but are not limited to, merchandise, golf equipment, golf cart and equipment rentals. The Department does not own any of the pro shop inventory, point of sales devices or display cases. The Operator shall be responsible to acquire any and all equipment, supplies and inventory necessary to operate the Pro Shop.

**1.2.12 Capital Improvements**

In consideration of the Fifteen (15) Year Renewal Term the successful bidder will be required to complete the following Capital Improvements on the Golf Course Property prior to the expiration of the initial Five (5) Year Term:

- i. Demolition and removal of the buildings and structure located in the Maintenance Complex and identified on the maps attached hereto and incorporated by reference as Exhibit C.

- ii. Design and construction of a maintenance facility taking into consideration location, facility design, environment and sustainability, equipment repair, equipment and supply storage, office space and staff facilities.

All Capital Improvements are subject to review and written approval of the Department in accordance with the Operating Agreement. Departments written approval of any Capital Improvement shall not be construed to relieve the Operator of the responsibility to obtain and maintain all licenses, certificates, permits and approvals. Operator shall be required to comply with the required Federal, State and local authorities, regulations or requirements pertaining to demolition, solid waste removal, recycling and new construction undertaken as part of any approved Capital Improvement. The Operator shall be solely responsible for construction, and maintenance of all Department approved Capital Improvements.

### **1.3 Signage**

With advance Department approval of location, size, material and design, in writing, the Operator may place signs on Department property across from the entrance to the Golf Course Property and place such permanent and semi-permanent signs as detailed in the Operator's bid and at Operator's sole expense.

### **1.4 Maintenance, Repair and Utilities**

A. Operator shall be solely responsible for the maintenance of the Golf Course Property and buildings, structures, and improvements thereon, including structural repairs, the installation and repair of all utility systems, the cost of all utility services, and the irrigation system, including all of the equipment and components of the system, including sprinkler heads and pumps. Operator shall deliver the Golf Course Property to Department upon expiration or termination of this Operating Agreement in at least as good condition as it was delivered at the commencement of the term.

B. Operator shall, at its sole cost and expense, keep and maintain the Golf Course Property, including any improvements constructed or located thereon in good repair and condition and shall promptly make all structural, nonstructural, ordinary and extraordinary repairs of every kind which may be required to be made upon or in connection with the Golf Course Property, , and any improvements thereon to keep and maintain the Golf Course Property in good repair and condition. Operator shall be required to maintain the golf course within the limits of the Water Use Registration issued for the Golf Course.

C. Operator shall, at its sole cost and expense, install, maintain, repair, and replace utility systems and pay for the cost of utility services as provided below.

- i. Water: Operator shall be responsible for all water service on Golf Course Property.
- ii. Natural gas, propane and oil: Operator shall be responsible for natural gas,

propane, and oil services on Golf Course Property.

- iii. Heat/Air Conditioning: Operator shall be responsible for all heating/air conditioning services on Golf Course Property.
- iv. Telephone and other communication services: Operator shall be responsible for all telephone and communications services on Golf Course Property.
- v. Electricity: Operator shall be responsible for all electric service on Golf Course Property.
- vi. Sewer and septic: Operator shall be responsible for all sewer and septic services related to Golf Course Property.

D. Operator shall keep the Golf Course Property free of trash and be responsible for the collection, disposal, and recycling of all garbage, rubbish, and other waste from the Golf Course Property. Operator shall participate in and comply with all recycling programs in effect for the county and municipality in which the Golf Course Property is located.

E. Operator shall not make or allow any physical change in the natural condition of the Golf Course Property, including, but not limited to, the cutting or removal of trees or shrubs, without first submitting plans and specifications therefore to Department and obtaining Department's prior written approval thereof. Department's approval shall not relieve Operator of its obligation to obtain and maintain all licenses, permits, and approvals required by the appropriate Federal and/or State governmental agency having jurisdiction over the activity to be undertaken.

F. Operator shall comply with the turf cultivation and management practices established by the United States Golf Association. Operator shall maintain the turf for playing conditions. Turf maintenance shall include, but not be limited to, the following: general cleanliness; landscaping; mowing/trimming; irrigation within the limits of the Water Use Registration as described herein; fertilization; general erosion repairs; and other related tasks necessary to maintain acceptable playing conditions on the golf course.

G. Operator shall be responsible for and shall ensure that all golf course patrons, sub-operators, licensees, and permittees are satisfying all obligations to maintain, and repair areas occupied by them as required by any sub-operating agreement or other applicable instrument

## **1.5 Security**

The Operator shall be solely responsible for security of the Golf Course Property. For any injury and/or accident that occurs at the Golf Course Property requiring any medical intervention of which the Operator is notified, the Operator shall make a report to the Department immediately by calling 1-877-WARN DEP (1-877-927-6337) and via email and in writing within one (1) day of the incident by sending a report to the Department at the contact information in the Operating Agreement.

## **1.6 Emergency Closures**

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

## **1.7 Improvements**

Operator shall not enter into any contract for or commence any restoration, preservation, renovation, or improvement project including, but not limited to, capital improvement projects, the construction or placement of any non-permanent building, structure, or utility or any change in the natural condition of the Golf Course Property (collectively "Improvements") without first submitting to Department, and obtaining Department's prior written approval of, an Improvement Plan for the proposed Improvement. The Improvement Plan shall include but not be limited to: (a) a description (including plans and specifications when deemed appropriate by Department) of each Improvement; (b) a schedule for initiation and completion of each Improvement; (c) a statement whether each Improvement will be performed by Operator or a contractor; and (d) such additional information that Department may reasonably be required to determine whether to approve the proposed Improvement.

## **1.8 Revenue; Audits**

The successful bidder shall be required to deposit all revenue (cash, checks, credit cards, etc.) into a single bank account, maintained at a bank located within the State of New Jersey and maintained solely for the Golf Course Property activities, and through which all financial transactions (including but not limited to deposits, withdrawals, and purchases) must pass.

The successful bidder will be required to provide yearly audited Financial Statements conforming to generally accepted accounting principles provided with the audit report of an Independent Certified Public Accounting Firm stating the financial statements present fairly in all material respects the financial position of the company and the results of operations are in conformity with the applicable financial reporting framework. The opinion must not be a qualified opinion and an adverse opinion will not be accepted. Financial statement compilations, financial statement reviews, or any other lower level of financial statements shall not be accepted in lieu of an audit.

## **1.9 Key Events**

The winning bidder shall meet with members of the Department within seven (7) days of the proposal award. The winning bidder should be prepared to assume operation of the Golf Course Property not later than **March 28, 2019**.

### **1.9.1 Questions and Inquiries**

The Department will accept questions and inquiries from all potential bidders. No oral communication is permitted. Questions shall be submitted in writing only, via mail or email, to the Department at the following address:

Department of Environmental Protection  
Office of Leases and Concessions  
Attention: George A. Chidley, Manager  
Mail Code 501-04C  
P.O. Box 420  
Trenton, NJ 08625-0420

Send email to: [officeofleases@dep.nj.gov](mailto:officeofleases@dep.nj.gov)

#### **1.9.1.1 Submission Cut-Off Date**

**The cut-off date for the submission of questions will be the date of the Pre-Bid Meeting and Site Visit (“Meeting”), details of which are set forth in Subsection 1.9.2 below.** While all questions will be entertained at the Meeting, it is strongly urged that questions be submitted in writing prior to the Meeting. Written questions must be delivered to the Manager of the Office of Leases and Concessions. It is requested that bidders with long, complex, or multiple-part questions submit them in writing as far in advance as possible, in order for the Department to prepare answers by the time of the Meeting.

#### **1.9.1.2 Question Protocol**

Questions should be submitted in writing to the attention of the Manager of the Office of Leases and Concessions. Written questions should be directly tied to the RFP. Questions should be asked in consecutive order, from beginning to end, following the organization of this RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

Brief procedural inquiries may be accepted over the telephone by the Office of Leases and Concessions. However, oral explanations or instructions given over the phone shall not be binding upon the State. Bidders shall not contact the Golf Course, the Division of Parks and Forestry or any other branch of the Department directly, in person or by telephone, concerning this RFP.

## **1.9.2 Pre-Bid Meeting and Site Visit**

A Pre-Bid Meeting and Site Visit (Meeting) has been scheduled for this procurement. The Meeting will be held at the Centerton Golf Course clubhouse/pro shop on **January 9, 2019 at 11:00 am.**

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

The purpose of the Meeting is to provide a structured and formal opportunity for the Department to accept questions from bidders regarding this RFP. The Meeting also will provide bidders with an opportunity to view the Golf Course Property.

Any revisions to the RFP resulting from the Meeting will be formalized and distributed to attendees as written addendum to the RFP. Answers to deferred questions also will be distributed to attendees as written addendum to this RFP. Addenda shall be consecutively numbered, e.g., Addendum No. 1, Addendum No. 2, etc.

## **1.10 Additional Information**

### **1.10.1 Revisions to the RFP**

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any RFP addendum will be distributed as follows:

- i. Any addendum issued before the Meeting (see Section 1.9.2) will be posted on the Office of Leases and Concessions website:

[http://www.nj.gov/dep/parksandforests/parks/business\\_ops/current\\_leases.htm](http://www.nj.gov/dep/parksandforests/parks/business_ops/current_leases.htm), and

- ii. Any addendum issued at the time of or after the Meeting will be distributed only to those bidders who attended and properly registered at the Meeting.

### **1.10.2 Addendum as Part of the RFP**

Any addendum to this RFP shall become part of this RFP.

### **1.10.3 Issuing Office**

This RFP is issued by the New Jersey Department of Environmental Protection, Office of Leases and Concessions. The Manager is the sole point of contact between the bidder and the Department for purposes of this RFP.

#### **1.10.4 Bidder Responsibility**

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

#### **1.10.5 Cost Liability**

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

#### **1.10.6 Contents of Bid Proposal**

The entire content of every proposal that is opened and read shall become a public record, notwithstanding any statement to the contrary made by a bidder in its proposal. As public records, all proposals are available for public inspection. Interested parties may schedule an appointment with the Manager to inspect proposals received in response to this RFP and may also make records request pursuant to the Open Public Records Act.

#### **1.10.7 Price Alteration**

Bid prices must be typed or written in ink. Any price change, including "white-outs," must be initialed. Failure to initial price changes may preclude an award from being made to a bidder.

#### **1.10.8 Bid and Performance Security**

Neither bid nor performance security is required.

#### **1.10.9 Joint Venture**

If a joint venture is submitting a bid, the agreement between the parties relating to said joint venture should be submitted with the joint venture's proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Pay to Play Disclosure Statement, Ownership Disclosure Form, Affirmative Action Employee Information Report, and foreign (i.e. out of State) corporation registration, if applicable, must be supplied for each party to a joint venture.

### **1.10.10 Causes for Rejection**

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

- a. The Department reserves the right to reject, in its sole discretion, any or all bid proposals at any point in the Proposal Evaluation and Selection Process.
- b. The bidder is not authorized to do business in the State of New Jersey;
- c. The Department has determined there is an actual or perceived conflict of interest;
- d. Bidder has failed to include any required information with the submittal;
- e. Bidder has failed to disclose a potential conflict of interest;
- f. The Department has determined there are false or misleading statements in the submittal;
- g. Bidder has not provided a valid New Jersey Business Registration Certificate.
- h. The proposal is not responsive to the RFP;
- i. The Bidders monetary proposal does not meet the minimum monetary proposal required.
- j. The Department has determined that Bidders proposed modification and or changes are considered to be inconsistent with the purposes of the Request for Proposal and the Operating Agreement.

### **2.0. DEFINITIONS**

The following definitions shall be part of any agreement executed as a result of this RFP:

- a. "Bidder" shall mean an organization that submits a proposal in response to this Request for Proposal.
- b. "Capital Improvement" shall mean the addition of a permanent structural change or the restoration of some aspect of a property that will either enhance the property's overall value, increase its useful life or adapt it to new uses.
- c. "Commissioner" shall mean the Commissioner of the New Jersey Department of Environmental Protection.
- d. "Department" or "the State" shall mean the State of New Jersey, Department of Environmental Protection.
- e. "Division" shall mean the Division of Parks and Forestry.



- f. "Evaluation Committee" shall mean a committee established by the Department to review and evaluate proposals submitted in response to this Request for Proposal and to recommend a proposal award.
- g. "Golf Course Property" or "Centerton" shall mean the Centerton Golf Course, as shown on the map attached hereto as Exhibit A.
- h. "Manager" shall mean the Manager of the Office of Leases and Concessions.
- i. "Meeting" shall mean the Mandatory Pre-Bid Meeting and Site Visit.
- j. "Office" shall mean the Office of Leases and Concessions.
- k. "Operating Agreement" shall mean the written agreement resulting from this Request for Proposal executed by the New Jersey Department of Environmental Protection and the winning bidder.
- l. "Operational Management Plan" shall mean a detailed business plan submitted by each bidder in response to this RFP that details its proposal for operating, managing, and developing the Golf Course Property in accordance with the State's goal.
- m. "Operator" shall mean the winning bidder to this Request for Proposal that enters into an Operating Agreement with the New Jersey Department of Environmental Protection.
- n. "Personal property" shall mean equipment, mowers, tractors, golf carts, golf equipment, Pro Shop Merchandise (including but not limited to golf supplies, equipment and apparel) and any other personal property necessary for the maintenance, management and operation of the Golf Course Property in accordance with this RFP and the Operating Agreement, placed or used on the Golf Course Property by Operator that are not attached to and/or physically incorporated into the Golf Course Property, Pro Shop and/or Clubhouse.
- o. "Request for Proposal (RFP)" shall refer to this document, which establishes the bidding requirement and solicits proposals to meet the needs of the Department for operation and management of Centerton Golf Course.
- p. "Routine maintenance and repairs" shall mean those planned work activities that reoccur on a periodic cycle to sustain the useful life of an item and those work activities undertaken to restore damaged or worn out items to a fully functioning operating condition.

### **3.0 SCOPE OF WORK**

The Department seeks to enter into a Five (5) year Operating Agreement with one Fifteen (15) year renewal term for a maximum term of twenty (20) years with a corporation, private individual or entity that will perform the services set forth in the RFP and Operating Agreement, which has been attached to this RFP as Exhibit D. Bidders should refer to the both this RFP and Operating Agreement in preparation of submitting a bid proposal to gain a full understanding of the services required to be performed thereunder.

As consideration for entering into and performing under the Operating Agreement, Bidders shall propose to pay the State a minimum annual rental amount equal to the greater of Sixty-Six Thousand Dollars and Zero Cents (\$66,000.00) or Ten percent (10%) of Total Annual Gross Revenue during each said Calendar Year.

#### **3.1 Required Services**

The successful bidder agrees to operate the Golf Course Property as a public golf course in the manner set forth in the RFP, the Operator's Bid Proposal submitted in response to this RFP and perform the services set forth in the Operating Agreement.

### **4.0 PROPOSAL PREPARATION & SUBMISSION**

#### **4.1 General Information**

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

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

#### **4.2 Proposal Delivery and Identification**

In order to be considered, a proposal responding to this RFP must arrive at the Office no later than **Noon (12:00pm) on February 7, 2019**. All bidders submitting proposals are advised to allow adequate delivery time to ensure punctual delivery of proposals by the date and time set forth herein. Late proposals shall be ineligible for consideration. **The exterior of all proposal packages must be labeled with "Centerton Golf Course", the Bid Due Date, and the Bidder's Name.** The Office address is:

Department of Environmental Protection  
Office of Leases and Concessions  
Attention: George Chidley, Manager

Mail Code 501-04C  
P.O. Box 420  
Trenton, NJ 08625-0420

### **4.3 Number of Bid Proposal Copies**

Each bidder must submit one (1) complete original bid proposal that clearly has been marked as the “**ORIGINAL**” bid proposal. Each bidder also must submit four (4) full, complete, and exact copies of the ORIGINAL. The copies are necessary in the evaluation of your bid. Bidders failing to provide the required number of copies shall be charged the cost incurred by the Department in producing the required number of copies. It is suggested that the bidder make and retain a copy of its bid proposal for its own records.

### **4.4 Proposal Content**

The bid proposal should be submitted in one volume that is divided in six (6) parts as follows:

#### **4.4.1 Forms (Part 1)**

##### **4.4.1.1 Affirmative Action Employee Information Report**

The bidder must complete the attached Affirmative Action Employee Information Report (Exhibit E), or alternatively, must supply either (1) a New Jersey Affirmative Action Certificate or (2) evidence that the bidder is operating under a federally approved or sanctioned affirmative action program. Failure to submit the Affirmative Action Employee Report or Certificate or other evidence with the bid proposal may be cause for rejection of the bid proposal.

##### **4.4.1.2 Business Registration Reporting; Stock Ownership**

Pursuant to N.J.S.A. 52:32-44, the State (including the Department of Environmental Protection) is prohibited from entering into an agreement with an organization unless the operator has provided a copy of its business registration certificate (or interim registration) as part of its bid submission. Failure to submit a copy of the Business Registration Certificate within the bid proposal is a cause for rejection of the bid proposal. See Section 1.10.10 for additional causes for rejection of a bid.

In addition, in the event the bidder is a corporation, partnership or sole proprietorship, pursuant to N.J.S.A. 52:25-24.2, the bidder must complete the attached Ownership Disclosure Form found at Exhibit F. Failure to submit a Ownership Disclosure Form with the bid proposal may be cause for rejection of the bid proposal.

##### **4.4.1.3 Pay to Play**

Chapter 51 (P.L. 2005, c. 51, codified at N.J.S.A. 19:44A-20.13 to -20.25, known as “Chapter 51”) and EO 117 (2008) restrict business entities which agree to certain contracts or agreements with the State from making or soliciting certain contributions. Compliance with

Chapter 51 and EO 117 is a material term and condition of this Request for Proposal and the Agreement, binding upon the parties upon the execution of the Agreement. Pursuant to the requirements of Chapter 51 and EO 117, it shall be a material breach of the terms of the Agreement for the Operator to do any of the following during any Term of the Agreement:

- (i) make or solicit a contribution in violation of Chapter 51 or EO 117;
- (ii) knowingly conceal or misrepresent a contribution given or received;
- (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or of Lieutenant Governor, or to any State, county, or municipal party committee, or any legislative leadership committee;
- (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the Operator itself, would subject the Operator to the restrictions of Chapter 51 or EO 117;
- (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- (vii) engage in any exchange or contributions to circumvent the intent of Chapter 51 or EO 117; or
- (viii) directly or indirectly, through or by any other person or means, do any act which would subject the Operator to the restrictions of Chapter 51 or EO 117. It is the Operator's continuing obligation to report any contributions it makes during any and all Term(s) of the Agreement.

Each bidder shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form, certifying that no contributions prohibited by Chapter 51 have been solicited or made by the bidder and reporting all contributions the bidder made during the preceding four years to any political organization organized under 26 U.S.C. § 527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required Certification and Disclosure Form is attached hereto as Exhibit G.

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

or action constitutes a breach of the Agreement that poses a conflict of interest pursuant to Chapter 51 or EO 117, the State Treasurer shall disqualify a bidder from the award of the Agreement.

In addition, each bidder shall submit the Chapter 271 Vendor Certification and Political Contribution Disclosure Form, disclosing the bidder's political contributions within the immediately preceding twelve (12) month period. The required Certification and Disclosure Form is attached hereto as Exhibit G.

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

The Operator is required, on a continuing basis, to report any contributions and solicitations the Operator makes during any Term of the Agreement at the time any such contribution or solicitation is made. Failure to do so is a breach of the Agreement.

The Operator shall file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, section 2) if the Operator receives contracts in excess of Fifty Thousand (\$50,000.00) dollars from public entities in a calendar year. It is the Operator's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

#### **4.4.2 Background Information (Part 2)**

Each bidder shall submit written answers and provide information to the following inquiries:

- i. How many years has your organization been in business under its present business name?
- ii. Under what other or former names has your organization operated?
- iii. If your organization is a corporation, provide the following information: date of incorporation; State of incorporation; president's name; vice president's name; secretary's name; treasurer's name; corporate agent for service; and current status of the corporation.
- iv. If the organization is a partnership, provide the following information: date of organization; type of partnership; and name(s) of general partner(s).
- v. If your organization is individually owned, provide the following information: date organization established; and name of owner.
- vi. Has your organization ever failed to complete any contract awarded to it?

- vii. Within the past five (5) years, has any officer or principal of your organization ever served as an officer or principal of another organization when it failed to complete a contract?
- viii. Are there any judgments, claims, arbitration proceedings, or lawsuits pending or outstanding against your organization or its officers or principals?
- ix. Has your organization filed any lawsuits or requested arbitration with regard to any contracts within the last five (5) years?
- x. Has any owner made a claim against your organization which has resulted in arbitration or litigation with the past five (5) years?
- xi. Has your organization or any of its officers, principals or owners ever been convicted of a crime, or are they presently the target of any criminal or administrative investigation?
- xii. Has your organization or any of its officers, principals, or owners ever been disqualified, suspended, or debarred from a contract with any federal, State, or local government entity?
- xiii. Does your organization or any of its officers, principals, or owners currently possess a liquor license issued by the New Jersey Division of Alcoholic Beverage Control?
- xiv. Has your organization or any of its officers, principals, or owners ever applied to and been unable to obtain a liquor license issued by the New Jersey Division of Alcoholic Beverage Control?
- xv. Has your organization or any of its officers, principals or owners ever possessed a liquor license issued by the New Jersey Division of Alcoholic Beverage Control and been investigated for violations and/or had disciplinary proceedings against the licensee(s).
- xvi. Has your organization or any of its officers, principals or owners ever possessed a liquor license issued by the New Jersey Division of Alcoholic Beverage Control and has had the license revoked?

If the answer to any questions “vi” through “xvi” is yes, please provide details including the disposition of any matter set forth therein.

Each bidder also shall describe in detail its expertise in providing golf course management services for projects similar in size and scope to the Golf Course Property, including:

- i. a description of all golf courses the bidder has managed, including size, number of memberships, and location for each course; and
- ii. the beginning and ending dates of each management contract or lease associated with each golf course listed in “i” above.

#### **4.4.3 Technical Proposal (Part 3)**

In this Section, the bidder shall describe its plans and approach for fulfilling the requirements set forth in this RFP and the Operating Agreement. The RFP and the Operating Agreement fully describe the minimum services to be provided by the Operator. The bidder must present its understanding of the requirements of the RFP and Operating Agreement and its ability to fulfill said requirements successfully. However, the bidder should not be limited by the services described and is encouraged to expand upon, supplement, or add other service areas where the bidder has expertise that may benefit the State. This section of the bidder’s proposal should contain at least the following information:

##### **4.4.3.1 Management Overview**

Each bidder shall submit a Management Plan containing a complete description of how the bidder intends to fulfill its obligations under the RFP and Operating Agreement, in narrative format. The Management Plan shall contain a complete description of how the bidder intends to implement each aspect of the requirements set forth in the RFP and Operating Agreement. The narrative should exemplify to the State that the bidder understands the objectives of the RFP and Operating Agreement, the nature of the services required, and the level of effort necessary to successfully execute the services under the RFP and Operating Agreement. The bidder’s narrative further should be designed to demonstrate that the bidder’s Management Plan is viable and can be successfully executed, and that the bidder’s general approach to undertaking the RFP and Operating Agreement and fulfilling the State’s goals is in accordance with the tasks and subtasks involved.

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

##### **4.4.3.2 Agreement Management**

The bidder should describe its specific plans to manage, control, and supervise the Operating Agreement to ensure satisfactory performance according to the bidder’s proposed schedule. The Operational Management Plan should include the bidder’s approach to communication with the Department, including but not limited to status meetings and status reports.

#### **4.4.3.3 Specific Plan Content**

The bidder's Operational Management Plan should identify and fully detail the following:

- i. Potential number of employees; required qualifications for all specific positions;
- ii. Proposed hours of operation and months of operation;
- iii. A suggested fee schedule for all services, memberships, and course usage;
- iv. Equipment and maintenance schedules;
- v. Plans for a pro shop; plans for food and beverage concession;
- vi. Proposed plans for course improvements through routine maintenance and repair;
- vii. Proposed plans for advertising and promotion;
- viii. Identify Capital Improvements to be made;
- ix. Plans, programs and procedures for the restoration and renovations of the Golf Course property including but not limited to the greens, tees, fairways and bunkers.
- x. Proposed plans for renovations, improvements to structures and facilities;
- xi. Description of security plan including emergencies and closures.

With respect to a fee schedule, the Operator in its Operational Management Plan shall establish all applicable fees, which will be subject to the Department's prior review and ultimate approval. Fees should be comparable to those charged by other public golf courses in the area.

With respect to plans for a pro shop, food and beverage concession, and renovations, the bidder should incorporate a schedule into its proposed Operational Management Plan. Therein, the bidder should set out the initiation dates and completion dates for these projects, if applicable. The bidder also should identify the scheduling and control methodology to be used and should provide the rationale for choosing such methodology.

With respect to plans for Capital Improvements, the bidder should identify those Capital Improvements that will be completed during the Initial and any Renewal Term of the Operating Agreements. The bidder should identify the reasoning for the Capital Improvement, and estimated cost.

With respect to a pro shop, the bidder shall explain in detail its plans for operating such a facility, including proposed hours of operation and the types of merchandise that will be sold. The Operator shall be responsible for supplying the necessary inventory.



With respect to a small-scale food and beverage concession, the bidder shall provide a sample menu of its intended food and beverage concessions with its bid proposal. The Operator shall be required to provide to the Department, prior to the beginning of operation, a menu including all items and prices. Department shall have the right to approve or reject the menu and/or prices.

#### **4.4.3.4 Mobilization and Implementation Plan**

It is essential that the State move forward quickly to have the Operating Agreement in place. Therefore, the bidder must include as part of its bid proposal a mobilization and implementation plan, beginning with the date of notification of the proposal award. The mobilization and implementation plan should include the following elements:

- i. A detailed timetable for the mobilization and implementation period. This timetable should be designed to demonstrate how the bidder will have the Golf Course Property open and operational within a reasonable time after March 28, 2019, but no later than April 15, 2019.
- ii. The bidder's plan for the development and use of management, supervisory, or other key personnel during the mobilization and implementation period. The plan should show all management, supervisory, and key personnel that will be assigned to manage, supervise, and monitor the bidder's mobilization and implementation of the Operating Agreement within the period of a reasonable time after March 28, 2019.

NOTE: The bidder should identify clearly the management, supervisory, or other key staff that will be assigned only during the mobilization and implementation period.

The bidder should submit a plan for the purchase and distribution of equipment, inventory, supplies, materials, etc. that will be required to fully implement the Operating Agreement on the required start date.

The bidder also should submit a plan for the use of sub-operators, if any, with respect to a pro shop and/or food and beverage concession. Emphasis should be placed on how any sub-operator identified will be involved in the mobilization and implementation plan.

#### **4.4.3.5 Potential Problems**

The bidder should set forth a summary of any and all problems anticipated during the term of the Operating Agreement. For each problem identified, the bidder should provide its proposed solution.

#### **4.4.4 Organizational Support and Experience (Part 4)**

The bidder should include information relating to its organization, personnel, and experience, including but not limited to references, together with contact names and telephone

numbers, evidencing the bidder's qualifications and capabilities to perform the services required by this RFP and Operating Agreement.

#### **4.4.4.1 Location**

The bidder should include the name(s) of key personnel, location of the office, and telephone number, and email address of the office that will be responsible for the project.

#### **4.4.4.2 Organization Chart [Complete]**

The bidder shall include an organization chart depicting its entire organizational structure. This chart should show the relationship of the individuals performing under the Operating Agreement to the bidder's overall organizational structure

#### **4.4.4.3 Resumes**

Detailed resumes should be submitted for all management, supervisory, and key personnel who will be acting under the Operating Agreement. Resumes should be structured to emphasize the relevant qualifications and experience of these individuals.

In the event the bidder must hire or otherwise engage management, supervisory, and/or key personnel if awarded the proposal, the bidder should include a recruitment plan for such personnel. Said recruitment plan should demonstrate that the bidder will be able to initiate and complete the project within the time frame required by this RFP.

#### **4.4.4.4 Experience of Bidder on Projects of Similar Size and Scope**

As evidence of the bidder's ability to complete the services set forth in the RFP and Operating Agreement, the bidder shall provide a comprehensive summary of golf course management projects similar in size and scope that it successfully has held in the past five (5) years. A description of all such projects shall be included and should demonstrate how such projects relate to the bidder's ability to complete the services required under the Operating Agreement. For each such project, the bidder shall provide the name and telephone number of a contact person.

Specifically, the bidder should describe its expertise in providing golf course management services including the following:

- i. a description of all golf course properties it has managed or been involved with, including size, type of service, and location for each service;
- ii. a description of all facilities the bidder has operated or managed; and
- iii. the beginning and ending date of each ownership, operating agreement/contract or operation associated with food and retail services listed in "i" and "ii" above.

#### **4.4.4.5 Financial Viability of the Bidder**

The bidder shall provide proof of its financial capacity and capabilities to undertake and successfully carry out its responsibilities under the Operating Agreement. To satisfy this requirement, the bidder shall submit the following with its bid proposal:

- i. The name and address of the bidder's bank, chief banking representative handling the bidder's account, and the bidder's federal employer information number (FEIN);
- ii. Certified financial statements from an independent CPA, including applicable notes, reflecting the bidder's assets, liabilities, net worth, revenues and receipts, expenses, profit or loss, and cash flow for the most recent calendar year or the bidder's most recent fiscal year; or
- iii. If a certified financial statement is not available, then either a reviewed or compiled statement from an independent accountant setting forth the same information.

#### **4.4.4.6 Sub-operator(s)**

Operator shall not enter into any sub-operating agreements with outside entities for the performance of any of its obligations under this Operating Agreement, except that Operator may enter into sub-operating agreements with outside entities for the maintenance of the Golf Course Property. If the bidder proposes to utilize a sub-operator to fulfill any of its obligations with respect to maintenance of the Golf Course Property, the bidder shall be responsible for each sub-operator's performance, compliance with all terms and conditions of this RFP and the Operating Agreement, and compliance with the requirements of all applicable laws.

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

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

NOTE: Before the Operator may allow a sub-operator to begin to operate or use the Golf Course Property, both the Operator and sub-operator must sign a sub-operating agreement, which shall be subject to the Department's written approval prior to taking effect.

#### **4.4.5 Monetary Proposal (Part 5)**

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

The minimum monetary proposal must be an amount equal to the Departments requirement of an annual rental amount equal to the greater of Sixty-Six Thousand Dollars and Zero Cents (\$66,000.00) or Ten percent (10%) of Total Annual Gross Revenue during each said Calendar Year.

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

For purposes of this RFP and the Operating Agreement, Total Annual Gross Revenue shall be defined to include all sales at the gross selling price of merchandise and items of every character sold in, upon, or through Centerton Golf Course, by the Operator, or any other person, firm, or corporation, including, but not limited to, all revenues and sales related to the operation of the Centerton Golf Course, pro shop, and any food and beverage concession, and gross charges for all services to customers or patrons, including, but not limited to, greens fees, memberships, and equipment rentals, performed by the Operator or any other person, firm, or corporation in, upon, or through any part of Centerton Golf Course, and shall include sales and charges for cash and credit, regardless of whether or not the same is collected or uncollected, less all proper credits for returned merchandise, merchandise exchanges and merchandise cancellations, allowances, or discounts, as well as any sales taxes collected by the Operator and remitted to taxing authorities.

#### **4.4.6 Changes to Terms and Conditions (Part 6)**

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

### **5.0 AGREEMENT TERMS & CONDITIONS**

#### **5.1 Precedence of Agreement Terms and Conditions**

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

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

## **5.2 Agreement Term and Extension Option**

The term of the Operating Agreement shall be for a period of Five (5) years, unless earlier terminated pursuant to the terms of the Operating Agreement. The anticipated Effective Date, which is expected to be March 28, 2019 will be provided in the Operating Agreement. Operator may request one renewal term of Fifteen (15) years. The Department has, in the Department's sole discretion, the right to approve the request and allow the renewal. The Department reserves the right to disapprove the renewal for convenience.

If the Department permits the Operator to continue operating the Operation Area after expiration of the Operating Agreement without having executed a new written agreement, the Operator shall be subject to all terms, covenants, and conditions contained in the expired Operating Agreement.

## **5.3 Insurance**

- A. The winning bidder as Operator shall, at its sole cost and expense, obtain and maintain at all times during each Term of this Agreement, insurance of the types and in the amounts hereinafter provided:
- (i) Commercial General Liability Insurance as broad as that provided by the standard basic, unamended, and unendorsed occurrence coverage forms currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage. Limits of liability shall be maintained at the level of One Million (\$1,000,000) Dollars per occurrence for bodily injury and property damage and a Two Million (\$2,000,000) Dollars annual aggregate (higher limits may be required if the Operator is issued an Annual State Permit). This can be accomplished with a combination of Commercial General Liability and Commercial Umbrella policies; and
  - (ii) Property insurance to cover loss or damage on a "Special Causes of Loss" form of coverage against fire, water, wind, storm, loss, theft, and damage on any structures on the Operation Area and all fixtures, equipment, and other property attached thereto and/or physically incorporated therein and the contents owned by Operator and located in or on the Operation Area. Said insurance shall be in an amount not less than the full value of such structures, fixtures, equipment, property, and contents. The value of said structures, fixtures, equipment, property, and contents shall be determined by Operator using whatever procedures Operator considers appropriate. Said policy shall be written so as to provide that the insurer waives all right of subrogation against Department in connection with any loss or damage covered by the policy; and
  - (iii) Worker's Compensation Insurance applicable to the Laws of the State of New Jersey and Employer's Liability Insurance with limits of not less than One Million (\$1,000,000) Dollars Bodily Injury By Accident (Each

Accident) and One Million (\$1,000,000) Dollars Bodily Injury By Disease (Each Employee) with an aggregate limit of One Million (\$1,000,000) Dollars Bodily Injury By Disease (Policy Limit); and

- (iv) Comprehensive Automobile Liability Insurance, which shall be written to cover any automobile or trailer used by Operator. Limits of liability to cover bodily injury and property damage shall not be less than One Million (\$1,000,000) Dollars per person or per accident. Coverage must include hired and non-owned vehicles. A MCS-90 certificate shall be filed with the State of New Jersey if hazardous materials or waste will be transported during operation of the Leased; and
- (v) Such other insurance and in such amounts as may from time to time be reasonably required by Department.

B. All insurance coverage required to be maintained by Operator in accordance with this Agreement shall be issued by an insurance company with an A- VIII or better rating by A.M. Best & Company authorized and approved to do business in New Jersey. All policies except for Worker's Compensation shall name the State of New Jersey Department of Environmental Protection as an additional insured and include the blanket additional insured endorsement or its equivalent. The certificate(s) of insurance shall identify the Lease Number assigned to this Agreement and the location(s) of the Operation Area in the Description of Operations box and shall list the State of New Jersey, Department of Environmental Protection, Natural and Historic Resources, Office of Leases & Concessions, P.O. Box 420, Mail Code: 501-04C, Trenton, New Jersey 08625-0420 in the Certificate Holder box.

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

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

- E. In the event that: (i) Operator fails or refuses to renew any of its insurance policies or to provide Department with timely certificate(s) of insurance showing that Operator is maintaining insurance coverage in full force and effect to the extent required by this Agreement, or (ii) any policy is canceled, terminated, or modified so that the insurance does not meet the requirements of this Agreement, Department shall consider Operator to be in material breach of the Agreement, subject to Suspension of Operations and/or Termination in accordance with the terms and conditions set forth in the Lease Agreement.
- F. The limits of insurance policies described in this Paragraph shall be reviewed by Department and Operator from time to time. Operator shall increase the limits of said policies to meet changed circumstances including, but not limited to, changes in the relevant U.S. Bureau of Labor Statistics Consumer Price Index and changes indicated by the course of plaintiffs' verdicts in personal injury actions.

Additional terms and conditions regarding insurance can be found in the Operating Agreement attached hereto as Exhibit D.

#### **5.4 Indemnification**

- A. The winning bidder as Operator shall, for itself, its successors, and assigns, assume all risk and liabilities arising out of the management, maintenance, and operation of the Operation Area and covenants to defend, protect, indemnify, and save harmless Department and each and every of its officers, agents, servants, employees, successors, and assignees and hereby releases Department and each and every of its officers, agents, servants, employees, successors, and assignees from and against any and all such liabilities, losses, damages, costs, expenses (including all attorneys' fees and expenses), causes of action, suits, claims, demands, or judgments of any nature arising from the following:
  - (i) any injury to, or the death of, any person caused in whole or in part by any negligent act or omission of Operator, or anyone directly or indirectly employed by [it], *regardless of whether it is caused in part by the Department*, or its officers, agents, servants, employees, successors, and assignees;
  - (ii) any injury to, or the death of, any person in, on, or about, or any damage to property which occurs in, on, or about the Operation Area or upon any sidewalk, walkway, or patio within the Operation Area or in any manner growing out of or connected with the use, non-use, condition, or occupancy of the Operation Area, or the construction or repair of any improvements of the Operation Area;
  - (iii) any act, error, or omission of Operator, its officers, agents, servants, employees, contractors, invitees, and anyone claiming by or through Operator in the performance of this Agreement;

- (iv) violation of any term or condition of this Agreement by Operator, its officers, agents, servants, employees, contractors, invitees, and anyone claiming by or through Operator in the performance of this Agreement; and
  - (v) violation by Operator, its officers, agents, servants, employees, contractors, invitees, and anyone claiming by or through Operator in the performance of this Agreement of any contracts and agreements of record concerning the Operation Area and restrictions of record or any law, ordinance, or regulation affecting the Operation Area or any part thereof or the ownership, occupancy, or use thereof.
- B. Department shall, as soon as practicable after a claim has been made against it, give written notice thereof to Operator, along with full and complete particulars of the claim. If suit is brought against Department or any of its officers, agents, servants, and/or employees, Department shall expeditiously forward or have forwarded to Operator every demand, complaint, notice, summons, pleading, or other document received by or then in the possession of Department or its representatives.
- C. It is expressly agreed and understood that any approval by Department of Operator's operation of the Operation Area shall not operate to limit the obligations of Operator assumed pursuant to this Agreement.
- D. Operator's liability pursuant to this Paragraph shall continue after the termination or expiration of this Agreement with respect to any liability, loss, cost, expense (including all attorneys' fees and expenses), damage, cause of action, suit, claim, demand, or judgment resulting from actions or inactions occurring prior to such termination or expiration.
- E. Operator's indemnification obligations are not limited by, but are in addition to, the insurance obligations contained in this Agreement.

Additional indemnification terms can be found in the Operating Agreement attached hereto as Exhibit D.

## **5.5 Claims and Remedies**

### **5.5.1 Claims**

The following shall govern claims made by the Operator regarding contract award rescission, contract interpretation, contractor performance and/or suspension or termination.

Final decisions concerning all disputes relating to contract award rescission, contract interpretation, contractor performance and/or contract reduction, suspension or termination are to be made by the Commissioner. The Commissioner's final decision shall be deemed a final agency action reviewable by the Superior Court of New Jersey, Appellate Division.

All claims asserted against the Department by the Operator and Operator's Contractors shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New



Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. However, any claim against the Department relating to a final decision by the Commissioner regarding contract award rescission, contract interpretation, contractor performance and/or contract reduction, suspension or termination shall not accrue, and the time period for performing any act required by N.J.S.A. 59:8-8 or 59:13-5 shall not commence, until a decision is rendered by the Superior Court of New Jersey, Appellate Division (or by the Supreme Court of New Jersey, if appealed) that such final decision by the Commissioner was improper.

### **5.5.2 Remedies**

Nothing in this RFP shall be construed to be a waiver by the Department of any warranty, expressed or implied, or any remedy at law or equity.

### **5.6 Prevailing Wage Act**

The winning bidder agrees to comply with the New Jersey Prevailing Wage Act, P.L. 1963, Chapter 150 as codified in N.J.S.A. 34:11-56.25, et seq, for any and all construction activities at the Operation Area. Bidder also agrees to comply with 42 U.S.C. § 9604 (g)(1). If any conflict exists between the New Jersey Prevailing Wage Law and § 9604 (g)(1), the bidder must comply with the federal requirements.

### **5.7 Conflicts of Interest**

The following prohibitions on Operator activities shall apply to all agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of Environmental Protection or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.

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

c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm

or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.

f. The provisions cited above in paragraphs a through e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

## **5.8 MacBride Principles and Iranian Investments**

The winning bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles. The MacBride Principles Certification form can be found at Exhibit H.

In addition, the bidder must certify that neither the bidder nor any of the bidder's parents, entities, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to N.J.S.A. 52:32-55. The Iranian Investment Activities Certification form can be found at Exhibit I.

## **5.9 Americans with Disabilities Act; Anti-discrimination**

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

The winning bidder shall not discriminate in employment and agrees to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4,

N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder.

Specifically, the Operator shall not unlawfully discriminate: 1) against any person, employee, or applicant for employment, or 2) in allowing access to and use of the Operation Area.

## **5.10 Applicable Law and Jurisdiction**

This RFP and the resulting Operating Agreement shall be governed by and interpreted in accordance with the Laws of the State of New Jersey and any legal actions shall be filed in the courts of the State of New Jersey.

## **5.11 Sales and Use Tax**

All taxes and property tax assessments, if any, arising out of the operation of the Operation Area and the use thereof shall be the sole responsibility of the Operator and shall be promptly paid by the Operator when due, regardless of whether such tax or assessment is assessed within or outside the Term of the Agreement. The Operator shall provide copies of the notice of any tax and assessment notice received from any government agency, municipality or county to the Department. Payment shall remain a continuing obligation of the Operator after the expiration or termination of the Agreement, and Department is authorized to make a demand for payment and take any and all steps to ensure payment. The Operator shall furnish to Department, within ten (10) days of demand therefor, proof of the payment of any such tax or assessment. The Operator's failure to timely pay any tax or assessment or otherwise comply will constitute a material breach of the Agreement.

The Operator and its subcontractor(s), if any, and each of their affiliates shall, for any and all Term(s) of the Agreement, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c. 30 (N.J.S.A. 54:32B-1 et. seq.) on all sales of tangible personal property delivered into this State. Any questions in this regard can be directed to the Division of Revenue at <https://www.state.nj.us/treasury/revenue/revgencode.shtml>.

## **6.0 PROPOSAL EVALUATION & SELECTION PROCESS**

### **6.1 Proposal Evaluation Committee**

Proposals will be reviewed and evaluated by a committee, which shall include participants from the Department's Natural and Historic Resources and the Division of Parks and Forestry.

### **6.2 Oral Presentation and/or Clarification of Proposal**

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its proposal. The Evaluation Committee also may require a bidder to submit written responses to questions regarding its proposal. The purpose of such communication with a

bidder, either through an oral presentation or written letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its proposal. However, original proposals may not be supplemented, changed, or corrected in any way. No comments regarding other proposals are permitted. Further, bidders may not attend presentations made by other bidders.

It is within the discretion of the Evaluation Committee to require a bidder to make an oral presentation or to submit written responses to questions regarding its proposal. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a proposal. The Manager will be the sole point of contact regarding any request for an oral presentation

### **6.3 Evaluation Criteria**

The following evaluation criteria, not necessarily listed in order of significance, shall be used to evaluate proposals received in response to this RFP. Bidder are encouraged to review the Evaluation Sheet attached hereto as Exhibit J.

- i. The bidder's general approach and plans in meeting the requirements of this RFP;
- ii. The bidder's detailed approach and plans to perform the services under the Operating Agreement;
- iii. The bidder's documented experience in successful operation of a golf course property of a similar size and scope to Centerton Golf Course;
- iv. The qualifications and experience of the bidder's management, supervisory, and other key personnel assigned to the Operating Agreement, with emphasis on documented experience in successfully completing projects similar in size and scope to Centerton Golf Course;
- v. The bidder's overall ability to mobilize, undertake, and successfully perform in accordance with the Operating Agreement. This judgment will include but not be limited to the number and qualifications of management, supervisory, and other staff proposed, the availability and commitment to the Operating Agreement of the bidder's management, supervisory, and other staff proposed, and the bidder's Operational Management Plan;
- vi. The bidder's availability and commitment to effectuating the Operating Agreement;
- vii. The bidder's financial viability and organizational history; and
- viii. The bidder's monetary proposal.

## 6.4 Selection Process

The proposal shall be awarded with reasonable promptness and by written notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State, price and other factors considered. Any or all bids may be rejected, for convenience.

## 6.5 Negotiation and Best and Final Offer (BAFO)

After evaluating proposals, the Department may enter into negotiations with one bidder or multiple bidders. The primary purpose of negotiations is to maximize the State's ability to obtain the best value based on the mandatory requirements, evaluation criteria, and price (amount to be paid to the Department). Multiple rounds of negotiations may be conducted with one bidder or multiple bidders. Negotiations will be structured by the Department to safeguard information and ensure that all bidders are treated fairly.

Similarly, the Department may invite one bidder or multiple bidders to submit a best and final offer (BAFO). Said invitation will establish the time and place for submission of the BAFO. Any BAFO that is not higher in price than the pricing offered in the bidder's original proposal will be rejected as non-responsive and the Department will revert to consideration and evaluation of the bidder's original pricing.

If required, after review of the BAFO(s), clarification may be sought from the bidder(s). The Department may conduct more than one round of negotiation and/or BAFO in order to attain the best value for the State.

**Negotiations will be conducted only in those circumstances where they are deemed by the Department to be in the State's best interests and to maximize the State's ability to get the best value. Therefore, the bidder is advised to submit its best technical and price proposal in response to this RFP since the State may, after evaluation, make a contract award based on the content of the initial submission, without further negotiation and/or BAFO with any bidder.**

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or price proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

**NOTE: If the Division contemplates negotiation, proposed prices will not be publicly read at the proposal submission opening. Only the name and address of each bidder will be publicly announced at the proposal submission opening.**

## **7.0 EXHIBITS**

- A. Map of the Golf Course Property
- B. Easements on Golf Course Property (right-of-way easement, four drainage easements, and septic system easement)
- C. Map of the Buildings and Structures for demolition and removal
- D. Sample Operating Agreement
- E. Affirmative Action Employee Information Report and Instructions
- F. N.J.S.A. 52:25-24.2 Ownership Disclosure Form
- G. Pay to Play Forms: (1) Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form; (2) Instructions - Contractor Certification and Disclosure of Political Contributions (Chapter 51/E.O. 117); and (3) Vendor Certification and Disclosure of Political Contribution Disclosure Form (P.L. 2005, c. 271)
- H. MacBride Principles Certification Form
- I. Iranian Investment Activities Form
- J. Evaluation Sheet