



**DELAWARE DIVISION OF PARKS AND
RECREATION
REQUEST FOR PROPOSAL
Agricultural Land Lease**

**CONTRACT NO. NAT-14-001_AGLEASE
Delaware State Park Agricultural Lands**

October 25, 2013

**Deadline to Respond
January 6, 2014
10:00 AM, LOCAL TIME**

ALL PROPOSERS:

The enclosed packet contains a "REQUEST FOR PROPOSAL" for AGRICULTURAL LAND LEASE.

The request for proposal consists of the following documents:

REQUEST FOR PROPOSAL - CONTRACT NO. NAT-14-001_AGLEASE

SECTION A. REQUEST FOR PROPOSAL (page 3)

SECTION B. GENERAL PROVISIONS (page 5)

SECTION C. AWARD AND EXECUTION OF LEASE (page 9)

SECTION D. DELAWARE DIVISION OF PARKS AND RECREATION SPECIFICATION AND LEASE REQUIREMENTS (page 10)

EXHIBIT 1 – MAP OF LANDS AVAILABLE FOR LEASE (page 18)

EXHIBIT 2 – AGRICULTURAL LAND LEASE (page 19)

SECTION E. VENDOR BID SECTION (page 29)

1 – AGRICULTURAL LAND LEASE BID FORM (Page 30)

2 –NON-COLLUSION STATEMENT AND ACCEPTANCE (page 33)

3 – NO BID REPLY FORM (page 34)

In order for your proposal to be considered, the proposal reply section shall be executed completely and correctly and returned in a sealed envelope clearly displaying the contract number **by January 6, 2014 at 10:00AM Local Time.**

Proposals shall be submitted to:

**State of Delaware
Division of Parks and Recreation
Greg J. Abbott
89 Kings Highway
Dover, DE 19901**

Please review and follow the information and instructions contained in the general and special provisions section of the invitation. Should you need additional information, please contact Greg J. Abbott, (302)739-9200 or Patrice L. Parson, (302)739-9200.

SECTION A

REQUESTS FOR PROPOSALS

- A. Sealed proposals for **NAT-14-001 AGLEASE** shall be received by the Delaware Division of Parks and Recreation, 89 Kings Hwy, Dover, DE 19901, until **January 6, 2013 at 10:00AM local time.**

The Delaware Division of Parks and Recreation (DIVISION) has reviewed the parcel's current and intended future use and specifically determined that it is not "surplus real property" as defined by 29 Del. C. § 9402(d) and, therefore, DIVISION has determined that the parcel is outside the jurisdiction of the Commission on State Surplus Property.

NOTE TO BIDDERS: The **Non-Collusion Statement must be notarized and signed or the bid will automatically be rejected.**

Agricultural leases may contain multiple tracts. Bids will only be accepted on Agricultural Leases, **not** individual tracts (i.e. Auburn Heights Preserve is one Agriculture Lease – AHP -01-2014 – that includes (2) tracts – 743 and 1077).

Prospective bidders may bid on multiple Agricultural Leases. **If bidding on multiple Agricultural Leases, a separate Agricultural Land Lease Bid Form must be submitted for each Lease.**

If you do not intend to submit a proposal, please return the "No Bid Reply Form."

NOTE: Only the Proposer's name will be read at the bid opening.

B. **KEY RFP DATES/MILESTONES**

The following dates and milestones apply to this RFP and subsequent contract award. Vendors are advised that these dates and milestones are not absolute and may change due to unplanned events during the bid proposal and award process.

Activity	Due Date
RFP Availability to Proposers	November 1, 2013
Written Questions Due No Later Than (NLT)	December 1, 2013
Written Answers Due/Posted to Website NLT	December 16, 2013
Proposals Due NLT	January 6, 2014 at 10:00AM
Public Proposal Opening	January 6, 2014 at 10:00AM

Proposal Evaluation	January 17, 2014
Lease Award	Within 30 calendar days of proposal opening

C. INQUIRIES & QUESTIONS

We welcome your interest in working with us, and we will be pleased to answer any questions you may have in formulating your response to this Request for Proposal.

All questions with regard to the interpretation of this solicitation, maps, or specifications, or any other aspect of this RFP must be received in writing by December 1, 2013. All questions will be answered in writing by December 16, 2013 and posted on <http://bids.delaware.gov/> website. All questions must make specific reference to the section(s) and page numbers from this RFP where applicable. Oral explanations or instructions will not be binding.

D. RFP DESIGNATED CONTACT

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below. Proposers should rely only on written statements issued by the RFP designated contact.

**State of Delaware
Division of Parks and Recreation
Greg J. Abbott
89 Kings Highway
Dover, DE 19901**

or

Greg. Abbott@state.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

E. CONTACT WITH STATE EMPLOYEE

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Proposers directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

SECTION B – GENERAL PROVISIONS

1. **FORMS:**

This Request For Proposal contains pre-printed forms for use by the proposer in submitting a proposal. The forms contain basic information such as description of the land and have blank spaces for use by the proposer for entering information such as ability to perform, best management farming practices, proposed lease price, and bid security amount.

2. **INTERPRETATION OF ESTIMATES:**

The attention of proposers is called to the fact that, unless stated otherwise, the acreage referenced in this and all associated documents are estimates.

3. **DELIVERY OF PROPOSALS:**

Proposals shall be delivered in sealed envelopes and shall bear on the outside the name and address of the proposer as well as the designation of the Lease. Proposals forwarded by U.S. Mail shall be sent first class to the address listed below. Proposals forwarded by delivery service other than the U.S. Mail or hand delivered must be delivered to the address listed below. All proposals must clearly display the bid number on the envelope.

**State of Delaware
Division of Parks and Recreation
Greg J. Abbott
89 Kings Highway
Dover, DE 19901**

All proposals will be accepted at the time and place set in the advertisement. Proposer bears the risk of delays in delivery. Proposals received after the time set for public opening will be returned unopened.

4. **WITHDRAWAL OF PROPOSALS:**

A proposer may withdraw his proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

5. **PUBLIC OPENING OF PROPOSALS:**

The proposals shall be publicly opened at the time and place specified by DIVISION. Proposers or their authorized representatives are invited to be present. At the time of opening, only the names of the proposers will be announced.

6. **LAWS TO BE OBSERVED:**

The proposer is presumed to know and shall strictly comply with all National, State, or County laws, and City or Town ordinances and regulations in any manner affecting the

conduct of the work. The proposer shall indemnify and save harmless the State of Delaware, Division of Parks and Recreation, and all officers, agents and employees thereof against any claim or liability arising from or based upon the violation of any such laws, ordinances, regulations, orders, or decrees whether by himself or by his employees.

7. **PERMITS AND LICENSES:**

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the proposer at his own expense.

8. **DOCUMENTS:**

Prospective proposers should ensure they review all Request For Proposal documents for each separate agricultural lease. Documents include instructions, a map (Exhibit 1), an agricultural land lease (Exhibit 2), and a proposal reply form. Certain of these documents such as maps may necessarily be posted individual of one another. It is the responsibility of the proposer to ensure he has reviewed all applicable documents.

9. **EXAMINATION:**

Each proposer should carefully examine the map (Exhibit 1) and agricultural land lease (Exhibit 2). Proposers are encouraged to visit the land subject to lease to fully view existing conditions that may affect the performance of the proposer under the lease. The successful proposer, after executing a lease, shall in no way be relieved of any obligation under the lease due to a failure to fully examine the lease or to visit the land subject to the lease.

10. **FORM OF BID:**

Proposals shall include the Proposal Reply Form, enclosed herein. Submit proposed lease amounts on a yearly and per acre basis. Sign and print name as noted. A proposer shall make no stipulations or other qualifications on the proposal reply form. Any such notations may subject a proposer to rejection.

11. **SIGNING BIDS:**

If the proposer is an individual, the proposal reply form shall be signed by the individual, under his/her name. If the proposer is a partnership, the proposal reply form shall be signed by an authorized partner, under the name of the partnership. If the proposer is a corporation, the proposal reply form shall be signed by an authorized executive officer of the corporation under its registered name and the corporate seal shall be affixed.

12. **BID SECURITY:**

Each proposal must be accompanied by a certified check made out to Delaware Division of Parks and Recreation for twenty five percent (25%) of the proposed annual lease fee,

serving as bid security. For a successful proposal, the bid security shall be applied to the first year annual lease fee upon execution of the agricultural lease. The remaining seventy five percent (75%) shall be due on or before January 1st of the first year of the lease term. For an unsuccessful proposal, the bid security shall be returned to the proposer no later than thirty (30) calendar days after the opening of proposals.

13. **PROPOSAL SUBMITTAL:**

The proposer shall assume full responsibility for timely delivery of all submitted proposals. Oral, email, fax or telephone proposals are not allowed. Each proposal shall be submitted in a sealed envelope marked Proposal Enclosed, labeled with the contract number, proposer's name and the bid opening date and time. Proposals submitted by mail shall be enclosed in an outer envelope marked with Proposal Enclosed and sent to:

**State of Delaware
Division of Parks and Recreation
Greg J. Abbott
89 Kings Highway
Dover, DE 19901**

14. **ACCEPTANCE OF PROPOSALS:**

The DIVISION reserves the right to waive technicalities, to reject any and all proposals, to advertise for new proposals, to proceed to deal with the land otherwise, or to abandon the execution of an agricultural lease, if the best interest of the State will be promoted thereby. DIVISION shall award an agricultural land lease to the best bid proposal. The successful proposer shall be notified within thirty (30) calendar days of proposal opening.

15. **CONTACT INFORMATION:**

Greg J. Abbott 302-739-9200 Greg.Abbott@state.de.us
Patrice L. Parson 302-739-9200 Patrice.Parson@state.de.us

16. **EXCEPTIONS:**

Proposers may elect to take minor exception to the terms and conditions of this Request For Proposal. DIVISION shall evaluate each exception according to the intent of the terms and conditions contained herein, but DIVISION must reject exceptions that do not conform to State law and/or create inequality in the treatment of proposals. Exceptions shall be considered only if they are submitted with the proposal or before the date and time of the proposal opening.

17. **PROPOSAL / LEASE EXECUTION:**

Both the non-collusion statement that is enclosed with this Request for Proposal and the Lease form delivered to the successful proposer for signature **shall** be executed by a

representative who has the legal capacity to enter into a formal Lease with DIVISION. The successful proposer shall submit a **W-9** with the executed Lease form **and** complete a W-9 Form by visiting the State of Delaware, Division of Accounting's Website: <http://accounting.delaware.gov> .

18. **DISQUALIFICATION OF PROPOSERS:**

Any one or more of the following causes may be considered as sufficient for the disqualification of a proposer and the rejection of a proposal:

- a. More than one proposal for the same Lease from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among proposers.
- c. Unsatisfactory performance record as evidenced by past experience.
- d. Any unauthorized additions, interlineations, conditional or alternate proposals or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.

SECTION C – AWARD AND EXECUTION OF LEASE

1. **EVALUATION OF PROPOSALS:**

a. Proposals will be evaluated on the following basis:

	EVALUATION CRITERIA		
		PERCENTAGE	POINTS
1.	The proposer’s ability to meet the conditions of this Request for Proposal and resulting lease. Knowledge and experience farming leased property.	20%	20
2.	The proposer’s use of Products and/or Services that are provided by Agricultural Businesses which are certified for Best Management Practices (BMP), Good Food Handling Practices(GHP) and Good Agricultural Practices (GAP) through the Delaware Department of Agriculture or surrounding State’s equivalent program.	10%	10
3.	Additional services provided for leased property.	10%	10
4.	Monetary bid per acre	60%	60
	TOTAL SCORE	100%	100

b. The right is reserved to waive technicalities, to reject any or all proposals or any portion thereof, to advertise for new proposals, or to no longer lease the land, if in the judgment of the DIVISION or its agent, the best interest of the State will be promoted thereby.

2. **AWARD OF LEASE:**

DIVISION shall award an agricultural land lease to the best proposal. The successful proposer shall be notified within thirty (30) calendar days after the proposal is opened. DIVISION reserves the right to reject, choose, etc. from concession leases.

3. **EXECUTION OF LEASE:**

a. The successful proposer shall execute a formal Lease with DIVISION within twenty (20) calendar days after date of official notice of the award of the Lease. If such Lease is not executed within this timeframe, then the successful proposer’s bid security is immediately forfeited as liquidated damages. The Lease would then be offered to the next best proposal or re-advertised, subject to the discretion of DIVISION.

SECTION D
SPECIFICATIONS AND LEASE REQUIREMENTS
FOR LEASING AGRICULTURAL LANDS WITH THE
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
(DEPARTMENT)
DELAWARE DIVISION OF PARKS AND RECREATION (DIVISION)

The State of Delaware will lease agricultural lands known as land in and around [insert identification of the tract of land], subject to the following:

TERM OF LEASE:

The term of this Lease shall be for ten (10) years beginning in January 2014 and terminating on December 31, 2023 without notice of such termination.

ACREAGE:

Fields that are designated and offered for lease by DIVISION are approximately [insert quantity] acres. DIVISION does not guarantee the exact acres of the land for lease.

LAND USAGE:

The Land covered under this lease is to be used for the specific agricultural purposes as noted on the map and for no other purposes. Tenant covenants and agrees that it will farm in accordance with generally accepted farming practices and procedures. Failures to do so will be cause for immediate termination of the lease.

RENTAL FEE:

TENANT shall pay DIVISION an annual rental fee of (amount) Dollars (\$) for each of years one through five. For each of years six through ten, TENANT shall pay a fixed 5% above the years one through five rental fee. The annual rental fee is based on (amount) Dollars (\$) per acre charge for approximately [insert number of acres] acres. DIVISION does not guarantee the exact total acreage of leased land. Rental fees shall be paid to DIVISION on or before January 1st for that lease year. Failure to make timely payments shall be a condition to cancel the lease at any time.

ASSIGNMENT / SUBLETTING OF LEASE:

TENANT shall not assign any interest in this lease without prior written consent of the DIVISION. TENANT shall not sublease any part of the leased land.

SECURITY:

TENANT covenants and agrees to in no way interfere with the security of the DEPARTMENT or

in the DEPARTMENT'S ability to carry out its mission.

SECURITY INTEREST:

TENANT hereby grants to DIVISION a security interest in the agricultural commodities grown by TENANT on the leased land during the term of this Lease, whether such crops are standing, grown, in storage or in transit, and in any proceeds from the sale, exchange, transfer or other disposition of the collateral or proceeds, to ensure the performance by TENANT under all agreements with DIVISION, as well as payment of any and all sums now, heretofore and hereafter owing to DIVISION by TENANT as a result of TENANT entering into this Lease with DIVISION.

USE OF LEASED LAND:

The leased land may be used for producing agricultural commodities, including, but not limited to, grain, vegetable and forage crops and pasture. TENANT agrees to follow good farm management practices and to farm the land in a good and reasonable manner to avoid degradation of the environment and further agrees to the following:

- a) DIVISION reserves the right to cancel this lease on or before January 31 of each year by written notice, given at least sixty (60) calendar days prior to January 31 for non-performance of the contract.
- b) TENANT shall enter into a Conservation Plan for the leased land with the Natural Resources Conservation Service. The Plan shall contain instructions for management of soil fertility, nutrients, erosion control, agricultural chemicals, integrated pest management, and wildlife concerns. The plan shall follow all appropriate state regulations. A copy of the plan shall be submitted to the DIVISION prior to the end of the first year of the lease term.
- c) TENANT shall enter into a Nutrient Management Plan for the leased land with the Delaware Department of Agriculture. A copy of the plan shall be submitted to the DIVISION prior to the end of the first year of the lease term.
- d) TENANT shall use all reasonable precautions to avoid the establishment of any noxious weeds, including Johnson grass, Canada thistle, bur cucumber, giant ragweed, Texas panicum, Palmer amaranth, and any additional noxious weeds as specified under Delaware State Law. If TENANT fails to control said vegetation, then DIVISION may terminate this Lease and may contract with an independent vendor to apply appropriate control measures to eradicate said noxious weeds and the cost of such measures shall be the responsibility of the TENANT.
- e) TENANT shall submit to DIVISION, upon request, a list of all agricultural pesticides, herbicides and other chemical sprays to be used on the leased land. All such products shall meet Federal and State standards and, if required, be applied by certified applicators in the appropriate manner and rate as per label instructions. Violation of Federal, State

pesticide, herbicide or other chemical spray laws, rules and regulations shall be a condition to cancel the Lease. DIVISION reserves the right to prohibit the use of certain agricultural chemicals, including, but not limited to, fertilizers, herbicides, and pesticides on the leased land. TENANT shall be required to notify the Park Superintendent specifically responsible for the leased land within 48 hours prior to any spraying on leased land. The use of carbofuran (Furadan) in liquid or granular form is prohibited on DIVISION lands.

- f) Any DIVISION leased lands designated as hay fields shall not be cut prior to July 1st for each growing season.
- g) Dumping, depositing, abandoning, discharging, releasing, or storing of any gaseous, liquid or solid hazardous wastes, substances, materials, or debris of whatever nature on, in, over, or under the ground or into surface or ground water is prohibited, except as permitted by law.
- h) Excavation, digging, removing, or selling of loam, peat, gravel, soil, rock, sand, or any similar material by the TENANT is prohibited. Cover crops are required on DIVISION leased lands. Refer to Special Provisions section (page #) for cover crop requirements.
- i) TENANT shall submit to DIVISION, upon request, an annual harvest report indicating type and amount of agricultural commodity harvested from the leased land.
- j) TENANT may be permitted to participate in Farm Service Agency or similar agricultural assistance programs. Participation in these programs is subject to the written approval of DIVISION.
- k) TENANT shall not construct or install any structures on the leased land without prior written approval of DIVISION.
- l) TENANT may place a well on leased land with prior written approval of DIVISION. Such well would be a fixture to the land and becomes property of DIVISION upon termination of the lease. TENANT waives and releases all claims and rights against DIVISION with respect to the costs of installing and/or operating such well, the soundness of new or existing wells, and water quantity and quality associated with such wells.
- m) TENANT may install an irrigation system on leased land with prior written approval of DIVISION. All aboveground pipes, pumps, power units, wheeled irrigation units and any other related equipment is property of TENANT. Upon termination of lease TENANT shall remove such property, subject to a removal plan approved by DIVISION, or convey such property to the succeeding TENANT. TENANT waives and releases all claims and rights against DIVISION with respect to the costs of installing and/or operating such irrigation system.
- n) DIVISION is not responsible for wildlife damages to agricultural commodities on the

leased land.

- o) All hunting and trapping rights and privileges and all land use except agricultural leased rights are reserved by DIVISION.
- p) TENANT shall use products and/or services that are provided by Agricultural Businesses which are certified for Best Management Practices (BMP), Good Food Handling Practices (GHP) and Good Agricultural Practices (GAP) through the Delaware Department of Agriculture or surrounding State's equivalent program.

RESERVED RIGHTS:

DIVISION reserves the following rights related to the leased land:

- a) Reserves the right to grant easements and rights of way across or upon the leased land. Annual rental fee shall be reduced to reflect any leased land acreage taken out of production.
- b) Reserves the right to create pathways, buffer strips, and hedgerows or to divert land for other DIVISION uses. Annual rental fee shall be reduced to reflect any leased land acreage taken out of production.
- c) Reserves the right of ingress and egress onto and over the leased land for inspection purposes, for enforcement of all laws, rules and regulations of DIVISION and for any other lawful purpose.

LIMITATION ON PUBLIC ACCESS:

DIVISION shall coordinate with TENANT on any public use of the leased land in order to not negatively impact normal farming operations.

HOLD HARMLESS:

TENANT agrees to exercise the rights herein granted at its own risk fees, arising from or in any way connected with injury to or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the leased land, regardless of cause, unless due to the gross negligence or willful misconduct of any of the Indemnified Parties.

DAMAGES TO PROPERTY:

TENANT agrees to be solely responsible for any and all injury, loss or damage to TENANT'S person, crops, equipment, and property or to equipment and property of others which may be placed on the leased land at TENANT'S request, and TENANT waives and releases any and all claims or rights against DEPARTMENT with respect thereto.

INSURANCE:

TENANT shall be insured against liability resulting from any agricultural practice or presence upon the leased land.

ASSIGNMENT, INSOLVENCY OR BANKRUPTCY:

Either (a) the appointment of a receiver to take possession of all or substantially all of the assets of TENANT or (b) a general assignment by TENANT for the benefit of creditors or (c) any action taken or suffered by TENANT under any insolvency or bankruptcy act shall constitute a breach of this Lease by TENANT and cause this Lease to terminate immediately.

TERMINATION FOR CAUSE:

TENANT agrees that if it fails to observe or perform any of the conditions or covenants on its part to be observed or performed, or if TENANT knowingly permits any unlawful acts to be carried out upon the leased land, then DIVISION shall have the right to terminate the Lease and to re-enter and repossess the leased land in the manner provided for by the laws of the State of Delaware. If DIVISION terminates this Lease while TENANT has crops growing in the fields, DIVISION agrees not to take possession of the leased land until after TENANT has harvested the crop during the normal harvest period or, at DIVISION'S option, DIVISION will reimburse TENANT at the fair market value for crops destroyed. TENANT may terminate this Lease by giving DIVISION ninety (90) calendar days' notice in writing. TENANT shall yield peaceable possession of the leased land at the termination of the Lease.

TERMINATION FOR CONVENIENCE:

The Lease shall remain in effect for the time period specified unless the Lease is terminated by DIVISION. DIVISION may terminate the Lease at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) calendar days before the effective date of termination.

NOTICES:

Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid and addressed as per the Lease. Upon written notice from a Party, or a successor in interest, to the other Party hereto, any such notice, demand or other written communication shall be given to that Party or successor at the address indicated in such notice.

WAIVER OF BREACH:

The waiver or acceptance by DIVISION of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any continuing or subsequent breach of the same or any other term, covenant or condition herein contained. All waivers or acceptances must be in writing. The subsequent acceptance of rent

hereunder by DIVISION shall not be deemed to be a waiver or acceptance of any preceding breach by TENANT of any term, covenant or condition of this Lease, other than the failure of TENANT to pay the particular rental fee so accepted, regardless of DIVISION'S knowledge of such preceding breach at the time of acceptance of such rental fee.

LEGAL COSTS AND EXPENSES:

TENANT shall pay and discharge all costs, attorneys' fees and expenses arising from enforcing any covenant or forfeiture hereof.

RULES AND REGULATIONS:

The rules and regulations contained in this Lease, as well as such reasonable rules and regulations as may be hereafter adopted by DIVISION for the safety, care and protection of its leased lands and the preservation of good order thereon, are hereby expressly made a part hereof, and TENANT agrees to adhere to all such rules and regulations, after notice of same.

REMEDIES:

It is understood and agreed that the remedies herein given to DIVISION shall be cumulative, and the exercise of any one remedy by DIVISION shall not be to the exclusion of any other remedy.

BINDING AGREEMENT:

The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, and assigns of all of the Parties hereto; and all of the Parties hereto shall be jointly and severally liable hereunder. This Lease shall not be interpreted as a waiver of the sovereign immunity of DIVISION.

TIME:

Time is of the essence of this Lease.

LAW:

This Lease shall be construed and interpreted in accordance with the laws of the State of Delaware.

ENTIRE CONTRACT:

This instrument contains the entire agreement of the Parties and supersedes, cancels, and revokes any and all other agreements between the Parties relating to the subject matter of this Lease. There are no representations or warranties, either oral or written, except those contained in this Lease. This Lease may be modified only by an amendment in writing signed by both Parties.

SEVERABILITY:

If any portion of this Lease shall be held invalid or unenforceable, the validity of the remaining portion shall be unaffected and this Lease shall remain in full force and effect as if it had been executed with the invalid portion omitted.

SPECIAL PROVISIONS:

Cover Crop Requirements

1. The purpose of the cover crop program is to protect and control soil, water and nutrient resources on the leased land. All leased land is required to have a cover crop based on the following conditions.
2. Eligible species of cover crop are rye, wheat, barley, and spring oats.
3. Early planting is defined as cover crops planted by October 1st.
4. Normal planting is defined as cover crops planted by October 15th.
5. All seed purchased for cover crops should be tested and properly labeled in accordance with Delaware Seed Law and Regulations.
6. If homegrown seed is used, it should be tested prior to planting for purity, germination, and noxious weeds by either the Maryland or Delaware State Seed Laboratory.
7. Cover crops shall be established and actively growing before the expected period(s) of nutrient leaching. No fall application of commercial fertilizers (N and P) or manure is allowed prior to planting the cover crop. No winter application of commercial fertilizer or manure is allowed. Spring application of manure can resume after March 1st in Sussex County and March 15th in Kent and New Castle Counties.
8. TENANT shall maintain a winter cover crop on all tillable acres, unless specifically exempted in writing by DIVISION.
9. If TENANT plans on harvesting the cover crop for grain, then TENANT can apply fertilizer or manure after March 1st.
10. If TENANT plans on planting early peas, then TENANT may destroy the cover crop after February 15th and fertilizer and manure can be applied after such date.
11. TENANT may destroy cover crops by applying an herbicide, by plowing the crop under or by green chopping for on-farm use, only after March 15th.

12. There will be a minimum of a 5% spot check of cover crop acres in the spring after removal of the cover crop.

The cover crop requirements should apply to all lands with the possible exception of the wastewater treatment facility land that is part of lease CHSP-02-2014.

Exhibit 1

Exhibit 1 is provided as a separate document at <http://bids.delaware.gov>.

Exhibit 2

LEASE # NAT-14-001_AGLEASE

AGRICULTURAL LANDS

AT

[identify location of subject property]

THIS LEASE, made and entered into this XX day of [insert month and year], by and between the State of Delaware, Delaware Division of Parks and Recreation Party of the First Part, hereinafter referred to as "DIVISION,"

AND

(Tenant), of (Tenant Address), Party of the Second Part, hereinafter referred to as "TENANT."

WITNESSETH, for and in consideration of the covenants and promises hereinafter contained and the payment of rentals as herein set forth, DEPARTMENT leases and rents TENANT and TENANT leases and rents from DEPARTMENT, all that certain cleared tracts of land situate in

_____ to the _____ Tax Records and more specifically located on the attached map, hereinafter referred to as "leased land".

1. **PARTIES.** The name and address of the Parties are:

DEPARTMENT: Delaware Division of Parks and Recreation
89 Kings Hwy
Dover, DE 19901

TENANT: (Tenant Address & Phone No.)

2. **TERM OF LEASE.** The term of this Lease shall be for [insert number] years beginning on [insert date] and terminating on [insert date], without notice of such termination. The DEPARTMENT reserves the right to extend this lease for one (1) additional three (5) year period.

3. **ACREAGE:**

Fields that are designated and offered for lease by Delaware Division of Parks and Recreation are approximately [insert quantity] acres. Delaware Division of Parks and Recreation does not guarantee the exact acres of the land for lease.

4. **LAND USAGE:**

The Land covered under this lease is to be used for the specific agricultural purposes

as noted on the map and for no other purposes. Tenant covenants and agrees that it will farm in accordance with generally accepted farming practices and procedures. Failures to do so will be cause for immediate termination of the lease.

5. **RENTAL FEE:**

The Land covered under this lease is to be used for the specific agricultural purposes as noted on the map and for no other purposes. Tenant covenants and agrees that it will farm in accordance with generally accepted farming practices and procedures. Failures to do so will be cause for immediate termination of the lease.

6. **ASSIGNMENT OF LEASE:**

TENANT shall not assign any interest in this lease without prior written consent of the DIVISION. TENANT shall not sublease any part of the leased land.

7. **SECURITY:**

TENANT covenants and agrees that he will in no way interfere with the security of the Institution or in the Department's ability to carry out its mission.

8. **SECURITY INTEREST:**

TENANT hereby grants to DIVISION a security interest in the agricultural commodities grown by TENANT on the leased land during the term of this Lease, whether such crops are standing, grown, in storage or in transit, and in any proceeds from the sale, exchange, transfer or other disposition of the collateral or proceeds, to ensure the performance by TENANT under all agreements with DIVISION, as well as payment of any and all sums now, heretofore and hereafter owing to DIVISION by TENANT as a result of TENANT entering into this Lease with DIVISION.

9. **USE OF LEASED LAND:**

The leased land may be used for producing agricultural commodities, including, but not limited to, grain, vegetable and forage crops and pasture. TENANT agrees to follow good farm management practices and to farm the land in a good and reasonable manner to avoid degradation of the environment and further agrees to the following:

a) DIVISION reserves the right to cancel this lease on or before January 31 of each year by written notice, given at least sixty (60) calendar days prior to January 31 for non-performance of the contract.

b) TENANT shall enter into a Conservation Plan for the leased land with the Natural Resources Conservation Service. The Plan shall contain

instructions for management of soil fertility, nutrients, erosion control, agricultural chemicals, integrated pest management, and wildlife concerns.

The plan shall follow all appropriate state regulations. A copy of the plan shall be submitted to the DIVISION prior to the end of the first year of the lease term.

- c) TENANT shall enter into a Nutrient Management Plan for the leased land with the Delaware Department of Agriculture. A copy of the plan shall be submitted to the DIVISION prior to the end of the first year of the lease term.
- d) TENANT shall use all reasonable precautions to avoid the establishment of any noxious weeds, including Johnson grass, Canada thistle, bur cucumber, giant ragweed, Texas panicum, Palmer amaranth, and any additional noxious weeds as specified under Delaware State Law. If TENANT fails to control said vegetation, then DIVISION may terminate this Lease and may contract with an independent vendor to apply appropriate control measures to eradicate said noxious weeds and the cost of such measures shall be the responsibility of the TENANT.
- e) TENANT shall submit to DIVISION, upon request, a list of all agricultural pesticides, herbicides and other chemical sprays to be used on the leased land. All such products shall meet Federal and State standards and, if required, be applied by certified applicators in the appropriate manner and rate as per label instructions. Violation of Federal, State pesticide, herbicide or other chemical spray laws, rules and regulations shall be a condition to cancel the Lease. DIVISION reserves the right to prohibit the use of certain agricultural chemicals, including, but not limited to, fertilizers, herbicides, and pesticides on the leased land. TENANT shall be required to notify the Park Superintendent specifically responsible for the leased land within 48 hours prior to any spraying on leased land. The use of carbofuran (Furadan) in liquid or granular form is prohibited on DIVISION lands.
- f) Any DIVISION leased lands designated as hay fields shall not be cut prior to July 1st for each growing season.
- g) Dumping, depositing, abandoning, discharging, releasing, or storing of any gaseous, liquid or solid hazardous wastes, substances, materials, or debris of whatever nature on, in, over, or under the ground or into surface or ground water is prohibited, except as permitted by law.
- h) Excavation, digging, removing, or selling of loam, peat, gravel, soil, rock, sand, or any similar material by the TENANT is prohibited. Cover crops are required on DIVISION leased lands. Refer to Special Provisions section (page #) for cover crop requirements.

- i) TENANT shall submit to DIVISION, upon request, an annual harvest report indicating type and amount of agricultural commodity harvested from the leased land.
- j) TENANT may be permitted to participate in Farm Service Agency or similar agricultural assistance programs. Participation in these programs is subject to the written approval of DIVISION.
- k) TENANT shall not construct or install any structures on the leased land without prior written approval of DIVISION.
- l) TENANT may place a well on leased land with prior written approval of DIVISION. Such well would be a fixture to the land and becomes property of DIVISION upon termination of the lease. TENANT waives and releases all claims and rights against DIVISION with respect to the costs of installing and/or operating such well, the soundness of new or existing wells, and water quantity and quality associated with such wells.
- m) TENANT may install an irrigation system on leased land with prior written approval of DIVISION. All aboveground pipes, pumps, power units, wheeled irrigation units and any other related equipment is property of TENANT. Upon termination of lease TENANT shall remove such property, subject to a removal plan approved by DIVISION, or convey such property to the succeeding TENANT. TENANT waives and releases all claims and rights against DIVISION with respect to the costs of installing and/or operating such irrigation system.
- n) DIVISION is not responsible for wildlife damages to agricultural commodities on the leased land.
- o) All hunting and trapping rights and privileges and all land use except agricultural leased rights are reserved by DIVISION.
- p) TENANT shall use products and/or services that are provided by Agricultural Businesses which are certified for Best Management Practices (BMP), Good Food Handling Practices (GHP) and Good Agricultural Practices (GAP) through the Delaware Department of Agriculture or surrounding State's equivalent program.

10. **RESERVED RIGHTS:**

DIVISION reserves the following rights related to the leased land:

- a) Reserves the right to grant easements and rights of way across or upon the leased land. Annual rental fee shall be reduced to reflect any leased land acreage taken out of production.

- b) Reserves the right to create pathways, buffer strips, and hedgerows or to divert land for other DIVISION uses. Annual rental fee shall be reduced to reflect any leased land acreage taken out of production.
- c) Reserves the right of ingress and egress onto and over the leased land for inspection purposes, for enforcement of all laws, rules and regulations of DIVISION and for any other lawful purpose.

11. LIMITATION ON PUBLIC ACCESS:

DIVISION shall coordinate with TENANT any public use of the leased land in order to not negatively impact normal farming operations

12. HOLD HARMLESS:

TENANT agrees to exercise the rights herein granted at its own risk fees, arising from or in any way connected with injury to or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the leased land, regardless of cause, unless due to the gross negligence or willful misconduct of any of the Indemnified Parties.

13. DAMAGES TO PROPERTY:

TENANT agrees to be solely responsible for any and all injury, loss or damage to TENANT'S person, crops, equipment, and property or to equipment and property of others which may be placed on the leased land at TENANT'S request, and TENANT waives and releases any and all claims or rights against DEPARTMENT with respect thereto.

14. INSURANCE:

TENANT shall be insured against liability resulting from any agricultural practice or presence upon the leased land.

15. ASSIGNMENT, INSOLVENCY OR BANKRUPTCY:

Either (a) the appointment of a receiver to take possession of all or substantially all of the assets of TENANT or (b) a general assignment by TENANT for the benefit of creditors or (c) any action taken or suffered by TENANT under any insolvency or bankruptcy act shall constitute a breach of this Lease by TENANT and cause this Lease to terminate immediately.

16. TERMINATION OF LEASE:

TENANT agrees that if it fails to observe or perform any of the conditions or covenants on its part to be observed or performed, or if TENANT knowingly permits any unlawful acts to be carried out upon the leased land, then DEPARTMENT shall have the right to terminate the Lease and to re-enter and repossess the leased land in the manner provided for by the laws of the State of Delaware. If DEPARTMENT terminates this Lease while TENANT has crops growing in the fields, the DEPARTMENT agrees not to take possession of the leased land until after TENANT has harvested the crop during the normal harvest period or, at DEPARTMENT'S option, DEPARTMENT will reimburse TENANT at the fair market value for crops destroyed. TENANT may terminate this Lease by giving DEPARTMENT ninety (90) days' notice in writing. TENANT shall yield peaceable possession of the leased land at the termination of the Lease.

17. TERMINATION FOR CONVENIENCE:

Leases shall remain in effect for the time period and quantity specified unless the Lease is terminated by the State. The State may terminate the Lease at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of termination.

18. NOTICES:

Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid and addressed as per Paragraph 1. Upon written notice from a Party, or a successor in interest, to the other Party hereto, any such notice, demand or other written communication shall be given to that Party or successor at the address indicated in such notice.

19. WAIVER OF BREACH:

The waiver or acceptance by DEPARTMENT of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any continuing or subsequent breach of the same or any other term, covenant or condition herein contained. All waivers or acceptances must be in writing. The subsequent acceptance of rent hereunder by DEPARTMENT shall not be deemed to be a waiver or acceptance of any preceding breach by TENANT of any term, covenant or condition of this Lease, other than the failure of TENANT to pay the particular rental fee so accepted, regardless of DEPARTMENT'S knowledge of such preceding breach at the time of acceptance of such rental fee.

20. LEGAL COSTS AND EXPENSES:

TENANT shall pay and discharge all costs, attorneys' fees and expenses arising from enforcing any covenant or forfeiture hereof.

21. RULES AND REGULATIONS:

The rules and regulations contained in this Lease, as well as such reasonable rules and regulations as may be hereafter adopted by DEPARTMENT for the safety, care and protection of its leased lands and the preservation of good order thereon, are hereby expressly made a part hereof, and TENANT agrees to adhere to all such rules and regulations, after notice of same.

22. REMEDIES:

It is understood and agreed that the remedies herein given to DEPARTMENT shall be cumulative, and the exercise of any one remedy by DEPARTMENT shall not be to the exclusion of any other remedy.

23. BINDING AGREEMENT:

The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, and assigns of all of the Parties hereto; and all of the Parties hereto shall be jointly and severally liable hereunder. This Lease shall not be interpreted as a waiver of the sovereign immunity of DEPARTMENT.

24. TIME:

Time is of the essence of this Lease.

25. LAW:

This Lease shall be construed and interpreted in accordance with the laws of the State of Delaware.

26. ENTIRE CONTRACT:

This instrument contains the entire agreement of the Parties and supersedes, cancels, and revokes any and all other agreements between the Parties relating to the subject matter of this Lease. There are no representations or warranties, either oral or written, except those contained in this Lease. This Lease may be modified only by an amendment in writing signed by both Parties.

27. SEVERABILITY:

If any portion of this Lease shall be held invalid or unenforceable, the validity of the remaining portion shall be unaffected and this Lease shall remain in full force and effect as if it had been executed with the invalid portion omitted.

28. SPECIAL PROVISIONS:

Cover Crop Requirements

1. The purpose of the cover crop program is to protect and control soil, water and nutrient resources on the leased land. All leased land is required to have a cover crop based on the following conditions.
2. Eligible species of cover crop are rye, wheat, barley, and spring oats.
3. Early planting is defined as cover crops planted by October 1st.
4. Normal planting is defined as cover crops planted by October 15th.
5. All seed purchased for cover crops should be tested and properly labeled in accordance with Delaware Seed Law and Regulations.
6. If homegrown seed is used, it should be tested prior to planting for purity, germination, and noxious weeds by either the Maryland or Delaware State Seed Laboratory.
7. Cover crops shall be established and actively growing before the expected period(s) of nutrient leaching. No fall application of commercial fertilizers (N and P) or manure is allowed prior to planting the cover crop. No winter application of commercial fertilizer or manure is allowed. Spring application of manure can resume after March 1st in Sussex County and March 15th in Kent and New Castle Counties.
8. TENANT shall maintain a winter cover crop on all tillable acres, unless specifically exempted in writing by DIVISION.
9. If TENANT plans on harvesting the cover crop for grain, then TENANT can apply fertilizer or manure after March 1st.
10. If TENANT plans on planting early peas, then TENANT may destroy the cover crop after February 15th and fertilizer and manure can be applied after such date.
11. TENANT may destroy cover crops by applying an herbicide, by plowing the crop under or by green chopping for on-farm use, only after March 15th.

12. There will be a minimum of a 5% spot check of cover crop acres in the spring after removal of the cover crop.

The cover crop requirements should apply to all lands with the possible exception of the wastewater treatment facility land that is part of lease CHSP-02-2014.

IN WITNESS WHEREOF, this Lease has been executed by the Parties hereto as of the day and year above written.

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF PARKS AND RECREATION

Witness

By: _____
Name: Collin P. O'Mara
Title: Secretary

Witness

By: _____
Name:
Title: Division Director

TENANT

Witness

By: _____
Name:
Title:

STATE OF DELAWARE)
) SS.
COUNTY OF)

BE IT REMEMBERED, That on this ____ day of _____, 2013, personally appeared before me, the Subscriber, a Notary Public in and for the State and County aforesaid, _____, Party of the First Part, known personally to be such, and acknowledged the foregoing instrument to be his act and deed and the act and deed of said DEPARTMENT.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

NOTARY PUBLIC

My commission expires on _____.

STATE OF)
) SS.
COUNTY OF)

BE IT REMEMBERED, That on this ____ day of _____, 2013, personally appeared before me, the Subscriber, a Notary Public in and for the State and County aforesaid, (TENANT), known personally to be such, and acknowledged the foregoing instrument to be his/her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

NOTARY PUBLIC

My commission expires on _____.

SECTION E

PROPOSAL BID SECTION

To be considered for this Lease, complete the following forms fully and completely and return to Delaware Division of Parks and Recreation, 89 Kings Hwy, Dover, DE 19901 by **January 6, 2014 @ 10:00 AM** local time, at which time bids will be opened.

THE FOLLOWING ARE REQUIRED IN ORDER FOR YOUR BID TO BE CONSIDERED:

- 1. Agricultural Land Lease Bid Form (Page #)**
- 2. Non-Collusion Statement (Page #)**
- 3. Description of use of Products and/or Services that are provided by Agricultural Businesses which are certified for Best Management Practices(BMP), Good Food Handling Practices(GHP) and Good Agricultural Practices (GAP) through the Delaware Department of Agriculture or surrounding State's equivalent program.**

PUBLIC BID OPENINGS –

NOTE: ONLY THE BIDDER'S NAME WILL BE READ AT THE BID OPENING

DELAWARE DIVISION OF PARKS AND RECREATION

Agricultural Land Lease Bid Form

PROPOSAL DUE: January 6, 2014 at 10:00AM local time

TO: State of Delaware
Division of Parks and Recreation
Attn: Greg J. Abbott
89 Kings Hwy
Dover, DE 19901

AGRICULTURAL LAND LEASE BID FOR:
[insert location of subject property], ACRES – [insert number of acres]

If bidding on multiple Agricultural Leases, a separate Agricultural Land Lease Bid Form must be submitted for each Lease.

1. Ability to Perform.

a. How many years of Farming Experience?(Check one box)

0 – 5

5-10

10-15

15-20

20-25

25+

b. Are you or your immediate family a current state agricultural lease holder? Yes / No

c. Have you held a previous state agricultural lease? Yes / No

i. If yes – please specify property and dates held.

d. Have you ever lost / defaulted on a state agricultural lease? Yes / No

i. If yes, please provide date of default and reason.

Please list additional services you have previously performed or are willing to provide as part of leased property.

2. Best Management Practices

Please list all of the agricultural BMP's that you plan to use.

3. Cost.

The undersigned, representing that he/she received a Bid Packet, read the Instructions to Bidders, reviewed the map of lands subject to lease (Exhibit 1), reviewed the agricultural lease (Exhibit 2) and had the opportunity to visit the land subject to the lease, hereby makes the following bid offer to lease the above-referenced agricultural lands for a term of ten years (10) beginning 2014 and terminating on December 31, 2023.

\$ _____ per year of agricultural lease for years one through five; years six through ten will be at a rate of 5% more than years one through five.

\$ _____ per acre of agricultural leased land for years one through five; years six through ten will be at a rate of 5% more than years one through five.

(For example, year one through five is at a rate of \$100 per acre annually. Years six through ten would be at a rate of \$105 per acre This proposal is submitted with a certified check made out to Delaware Division of Parks and Recreation as a Bid Security of twenty-five percent (25%) of the bid annual lease fee.

Bid Security = \$_____. For a successful bid, the Bid Security shall be applied to the first year annual lease fee upon execution of the agricultural lease. The remaining seventy five percent (75%) shall be due on or before January 1st of the first year of the lease term and failure of such payment in full will result in forfeiture of the Bid Security and cancellation of the awarded agricultural lease.

This bid offer is submitted with the knowledge that Delaware Division of Parks and Recreation reserves the right to waive technicalities, to reject any and all bids, to advertise for new bids, to proceed to deal with the land otherwise, or to abandon the execution of an agricultural lease, if the best interest of the State will be promoted thereby. Delaware Division of Parks and Recreation shall

award an agricultural land lease to the best bid proposal. The successful bidder shall be notified within thirty (30) calendar days of bid opening.

PRINT NAME OF BIDDER: _____

SIGNATURE OF BIDDER: _____

ADDRESS: _____

TELEPHONE: (____) _____

DATE SUBMITTED:

Bidder is: an individual; partnership; Corporation

If a partnership, bid offer shall be signed by an authorized partner under the name of the partnership. If a corporation, bid offer shall be signed by an authorized executive officer of the corporation under its registered name and the corporate seal affixed.

CONTRACT NO: NAT-14-001_AGLEASE
 TITLE: [insert contract name]
 OPENING DATE: _____

NON-COLLUSION STATEMENT

This is to certify that the undersigned bidder has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to the State of Delaware.

It is agreed by the undersigned bidder that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this Invitation to Bid including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal lease with the State of Delaware.

COMPANY NAME _____ (Check one)

	Corporation
	Partnership
	Individual

NAME OF AUTHORIZED REPRESENTATIVE _____
 (Please type or print)

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____ STATE OF DELAWARE LICENSE NUMBER _____

COMPANY CLASSIFICATIONS:	<u>Women</u>	Yes	No	<u>Minority</u>	Yes	No	<u>Disadvantaged</u>	Yes	No
(Please circle)	<u>Business</u>			<u>Business</u>			<u>Business</u>		
	<u>Enterprise</u>			<u>Enterprise</u>			<u>Enterprise</u>		
	<u>(WBE)</u>			<u>(MBE)</u>			<u>(DBE)</u>		

PURCHASE ORDERS SHOULD BE SENT TO:
 (COMPANY NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

THIS PAGE MUST BE SIGNED, NOTARIZED AND RETURNED FOR YOUR BID TO BE CONSIDERED

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

City of _____ County of _____ State of _____

STATE OF DELAWARE
Delaware Division of Parks and Recreation
89 Kings Hwy
Dover, DE 19901
NO BID REPLY FORM

To assist us in obtaining feedback about our Invitations to Bid, we ask that each firm that does not wish to bid, state their reason(s) below and return to the above address.

We must offer a "No Bid" at this time because:

- _____ 1. We do not wish to participate in the bid process.
- _____ 2. We do not wish to bid under the terms and conditions of the Request for Bid document. Our objections are:

- _____ 3. We do not feel we can be competitive.
- _____ 4. Other: _____

FIRM NAME

SIGNATURE