DELAWARE DIVISION OF FISH AND WILDLIFE
REQUEST FOR PROPOSAL
Agricultural Land Lease

CONTRACT NO. NAT-18-001_AGLEASE
Augustine Wildlife Area - Faella, Silver Run, Green Tracts

January 2, 2018

- Deadline to Respond -
January 26, 2018
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-18-001_AGLEASE

A. REQUEST FOR PROPOSAL
B. GENERAL PROVISIONS
C. AWARD AND EXECUTION OF LEASE
D. DELAWARE DIVISION OF FISH AND WILDLIFE SPECIFICATION AND LEASE REQUIREMENTS
EXHIBIT 1-4 – MAP OF LAND
EXHIBIT 5 – AGRICULTURAL LAND LEASE
E. VENDOR BID SECTION
   1 – VENDOR BID FORM
   2 – NO BID REPLY FORM
   3 – NON-COLLUSION STATEMENT AND ACCEPTANCE

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 26, 2018 at 10:00AM Local Time.**

Proposals shall be submitted to:

State of Delaware
Delaware Division of Fish and Wildlife
Craig Rhoads
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 Craig Rhoads, (302)739-9912.

SECTION A

REQUESTS FOR PROPOSALS

A. Sealed proposals for **NAT-18-001_AGLEASE** shall be received by the Delaware Division of Fish and Wildlife, 89 Kings Hwy, Dover, DE 19901, until **January 26, 2018 at 10:00AM local time,** at which time proposals will be publicly opened and recorded.

The Delaware Division of Fish and Wildlife 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, Delaware Division of Fish and Wildlife has determined that the parcel is outside the jurisdiction of the Commission on State Surplus Property.

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

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 Vendors	January 2, 2018
Written Questions Due No Later Than (NLT)	January 17, 2018
Written Answers Due/Posted to Website NLT	January 19, 2018
Proposals Due NLT	January 26, 2018 at 10:00AM
Public Proposal Opening	January 26, 2018 at 10:00AM
Proposal Evaluation/Presentations as required	January 31, 2018
Vendor Best & Final Discussions as required	
Contract Award	Will occur within 30 days of bid 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, drawings, or specifications, or any other aspect of this RFP must be received in writing by January 17, 2018. All questions will be answered in writing by January 19, 2018 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; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Craig Rhoads
State of Delaware
Division of Fish and Wildlife
89 Kings Highway
Dover, DE 19901

or

Craig.Rhoads@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. Vendors 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.

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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 experience in the area for which the land may be utilized, intent to support the State's Environmentally Preferred Purchasing Policy, proposed lease price, and surety 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
Delaware Division of Fish and Wildlife
Craig Rhoads
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 Delaware Division of Fish and Wildlife. 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 contractor 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 contractor shall indemnify and save harmless the State of Delaware, Delaware Division of Fish and Wildlife, 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 contractor at his own expense.

8. **DOCUMENTS:**

Prospective offerors should ensure they review all Request For Proposal documents for each separate agricultural lease. Documents include instructions, maps (Exhibit 1-4), an agricultural land lease (Exhibit 5) 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 maps (Exhibit 1-4) and agricultural land lease (Exhibit 5). Proposers are encouraged to visit the land subject to lease to fully view existing conditions that may affect the performance of the bidder 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 Fish and Wildlife 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 **October 31st** 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) 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
Delaware Division of Fish and Wildlife
Attn: Craig Rhoads
89 Kings Highway
Dover, DE 19901

14. **ACCEPTANCE OF PROPOSALS:**

The Delaware Division of Fish and Wildlife 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. The Delaware Division of Fish and Wildlife shall award an agricultural land lease to the highest qualified bidder. The successful proposer shall be notified within thirty (30) days of proposal opening.

15. **CONTACT INFORMATION:**

Craig Rhoads, (302) 739-9912, Craig.Rhoads@state.de.us
Karen Kennedy, (302) 739-9912, Karen.Kennedy@state.de.us

16. **EXCEPTIONS:**

Proposers may elect to take minor exception to the terms and conditions of this Request For Proposal. Delaware Division of Fish and Wildlife shall evaluate each exception according to the intent of the terms and conditions contained herein, but Delaware Division of Fish and Wildlife must reject exceptions that do not conform to State law and/or create inequality in the treatment of bidders. Exceptions shall be considered only if they are submitted with the bid 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 bidder for signature **shall** be executed by a representative who has the legal capacity to enter the organization into a formal Lease with the State of Delaware, Delaware Division of Fish and Wildlife. The awarded vendor(s) shall submit their **W-9** with the executed Lease form **and** complete a W-9 Form by visiting the 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 his 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 bid incomplete, indefinite, or ambiguous as to its meaning.

e. Non-attendance of mandatory pre-bid meetings.

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 offeror's ability to meet the conditions of this Request for Proposal and resultant lease.	45	45
2.	The offeror'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.	Cost	45	45
.	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 bids, to proceed to do the work otherwise, or to abandon the work, if in the judgment of the Delaware Division of Fish and Wildlife or its agent, the best interest of the State will be promoted thereby.

2. **AWARD OF LEASE**:

The Delaware Division of Fish and Wildlife shall award an agricultural land lease to the highest qualified bidder. The successful bidder shall be notified within thirty (30) days after the proposals due date.

3. **EXECUTION OF LEASE**:

a. The bidder to whom the award is made shall execute a formal Lease and bond within twenty days after date of official notice of the award of the Lease.

b. If the successful bidder fails to execute the required Lease and bond, as aforesaid, within twenty days after the date of official notice of the award of the Lease, his bid guaranty shall immediately become forfeited as liquidated damages. Award will then be made to the next lowest qualified bidder of the work or re-advertised, as Delaware Division of Fish and Wildlife may decide.

4. **THE LEASE(S)**:

The Lease(s) with the successful bidder(s) will be executed with the Delaware Division of Fish and Wildlife.

SECTION D

SPECIFICATIONS AND LEASE REQUIREMENTS FOR LEASING AGRICULTURAL LANDS WITH THE DELAWARE DIVISION OF FISH AND WILDLIFE

The State of Delaware will lease agricultural lands known as land in Augustine Wildlife Area – Faella, Silver Run, Green Tracts, subject to the following:

TERM OF LEASE:

This Lease will be for a period of two (2) crop season years beginning March 15, 2018 and ending December 31, 2019.

ACREAGE:

Fields that are designated and offered for lease by Delaware Division of Fish and Wildlife are approximately **173** acres. Delaware Division of Fish and Wildlife does not guarantee the exact acreage of the land for lease.

LAND USAGE:

The land covered under this lease is to be used for crop purposes only and for no other purposes. Lessee covenants and agrees that it will farm in accordance with generally accepted farming practices and procedures. Failure to do so will be cause for immediate termination of the lease.

ASSIGNMENT OF LEASE:

Lessee may not assign his interest in this lease without the prior written consent of the Lessor.

SECURITY:

Lessee 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.

BINDING:

This agreement is binding upon the parties hereto, their heirs, successors, administrators and assignees.

CONDITIONS:

The Lessee of this property shall agree to the following conditions.

a. The Delaware Division of Fish and Wildlife reserves the right to cancel this 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. Should the Delaware Division of Fish and Wildlife chose to terminate this lease prior to crops being harvested the termination date will be five (5) days after the last crops are harvested. Furthermore, if the Delaware Division of Fish and Wildlife terminates this lease prior to crops being harvested, the Lessee agrees to harvest said crops in a timely fashion within normal agricultural harvesting seasons. Should the Delaware Division of Fish and Wildlife have to destroy planted crops above and beyond the amount specified in the lease

agreement the Lessee will be compensated at the fair market value based on the total acreage of crop lost. This lease shall not be subject to subleasing on the part of the TENANT.

b. Lessee will be required to pay twenty-five percent (25%) of the annual rental when the contract is awarded. In subsequent years of the contract, the twenty-five percent (25%) payment is due on or before March 15. The remaining balance of the annual rental, seventy-five percent (75%) shall be due on or before October 31 of each year of the lease. Failure to make timely payments shall be a condition to which cancel the Delaware Division of Fish and Wildlife may cancel the lease at any time. In addition, Lessee must agree to grant a security interest (lien) in farm crops, not limited to soybeans, sorghum, or corn, standing, grown, in storage or in transit, which are grown on described rental property, to insure performance by the Lessee under all agreements with the Lessor. The Lessee must provide the Delaware Division of Fish and Wildlife with a list of grain dealers that will be receiving crops grown on Division lands to insure execution of security interest.

c. Term lease: Two (2) crop season years, beginning March 31, 2018 and automatically terminating without written notice by the Delaware Division of Fish and Wildlife on December 31, 2019.

d. Fields with the approximate acreage that are offered for lease are outlined on the attached maps and table. The Delaware Division of Fish and Wildlife does not guarantee the exact acres of land for rent.

e. Corn, sorghum, or soybeans will be grown at the discretion of the farmer unless otherwise directed in writing by the Delaware Division of Fish and Wildlife. In every field, four (4) productive rows of corn or fifteen (15) feet of soybeans shall be left unharvested on all sides of each field except those sides immediately adjacent to paved or dirt roads. Failure to leave the required standing crop shall be a condition to which the Delaware Division of Fish and Wildlife may cancel the lease at any time. Crop left in the field after combining by mechanical picker shall not be removed until March 15 of each year.

f. Unless following a wheat/soybean double crop, a cover crop must be planted on all fields where unharvested crops are not required to be left standing. Cover crops may consist of rye, wheat, barley, oats, winter peas, radishes, turnips, or other winter crops as approved by the Delaware Division of Fish and Wildlife. Lessee is cautioned that winter grains may be damaged by wintering waterfowl. Should it not be practical to establish a cover crop in a timely fashion due to weather or other agricultural related issues Lessee shall immediately notify the Delaware Division of Fish and Wildlife. Failure to plant a required cover crop or provide notice to the Delaware Division of Fish and Wildlife shall be a condition to which the Delaware Division of Fish and Wildlife may cancel the lease at any time.

g. The Delaware Division of Fish and Wildlife reserves the right to prohibit the use of certain agricultural pesticides on their lands. The use of carbofuran (Furadan) liquid or granular is prohibited on Delaware Division of Fish and Wildlife lands. The Delaware Division of Fish and Wildlife reserves the right to prohibit other restricted use compounds. Lessee may be requested to submit a listing of pesticides to be used on Delaware Division of Fish and Wildlife lands. Violation of Federal, State, or Division pesticide regulations shall be a condition to cancel the lease.

h. Lessee shall enter into a Nutrient Management Plan for the leased land with the Delaware Department of Agriculture. The plan shall follow all appropriate state regulations including those pertaining to use of animal waste manure. Lessee will be required to apply lime at sufficient rates to maintain the soil pH between 5.8 and 6.5, to be monitored annually by the Lessee through

soil sample analysis. Fertilizer shall be applied at an equal rate on both crops to be harvested by the Lessee and those left unharvested for the Delaware Division of Fish and Wildlife.

i. TENANT shall not plow, disk, or otherwise till any areas until March 15 of each year in order to leave food and cover for wildlife during the winter, except when planting an approved cover crop as required by this lease, or as otherwise approved by the DEPARTMENT.

j. No tillage, mowing, or herbicide applications will be permitted in areas taken out of production without advance written consent of the Delaware Division of Fish and Wildlife. These areas are marked by Delaware Division of Fish and Wildlife signs. The acreage of these areas has been subtracted from the total rental acreage calculation.

k. No scare devices (flags, exploders, etc.) will be permitted on lands leased by the Delaware Division of Fish and Wildlife.

l. The Lessee shall be responsible for the control of noxious weeds growing on leased lands as declared by the Delaware Department of Agriculture, with the exception of those lands referenced in the previous condition (j) which will be the responsibility of the Delaware Division of Fish and Wildlife. Failure of Lessee to comply with Department of Agriculture noxious weed control measures shall be a condition to cancel the lease.

m. The Division reserves the right to create new hedgerows, ponds, buffer strips, or divert land for other uses. Any lands diverted for these will not affect the contract bid price unless such diversion exceeds three percent of the tillable acreage. The Division will deduct a proportional amount from the annual rent for diversions exceeding three percent.

n. All hunting and trapping rights and privileges and all land use except agricultural tillable rights are reserved by the Division. The Lessee is advised to harvest all crops as early as possible each year to prevent damage due to hunting as these lands will be open to public hunting. The Division will not be held responsible for any damage to the Lessee's crops or machinery.

o. The successful bidder agrees to give preference in employment to bona fide legal citizens in this state who have established citizenship by residence of at least ninety (90) days in the state.

p. Lessee 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.

SPECIAL PROVISIONS:

a. Fields 12 and 13 are to be planted each year by the lessee in corn, soybeans, grain sorghum or sunflowers and left unharvested to provide a wildlife food source. Lessee is required to maintain soil fertility and pH in fields 12 and 13 at the same level as all other leased fields.

HOLD HARMLESS:

The successful bidder agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged

to be caused, by acts or omissions of the successful bidder, its employees, and invitees on or about the premises and which arise out of the successful bidder's performance, or failure to perform as specified in the Agreement.

TERMINATION FOR CAUSE OR CONVENIENCE:

The Delaware Division of Fish and Wildlife reserves the right to cancel this 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. Should the Delaware Division of Fish and Wildlife chose to terminate this lease prior to crops being harvested the termination date will be five (5) days after the last crops are harvested. Furthermore if the Delaware Division of Fish and Wildlife terminates this lease prior to crops being harvested, the Lessee agrees to harvest said crops in a timely fashion within normal agricultural harvesting seasons. Should the Delaware Division of Fish and Wildlife have to destroy planted crops above and beyond the amount specified in the lease agreement the Lessee will be compensated at the fair market value based on the total acreage of crop lost. This lease shall not be subject to subleasing on the part of the TENANT.

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Exhibit 1

Exhibit 1. Aerial view of Augustine Wildlife Area Faella Tract showing agricultural fields near Port Penn, Delaware.

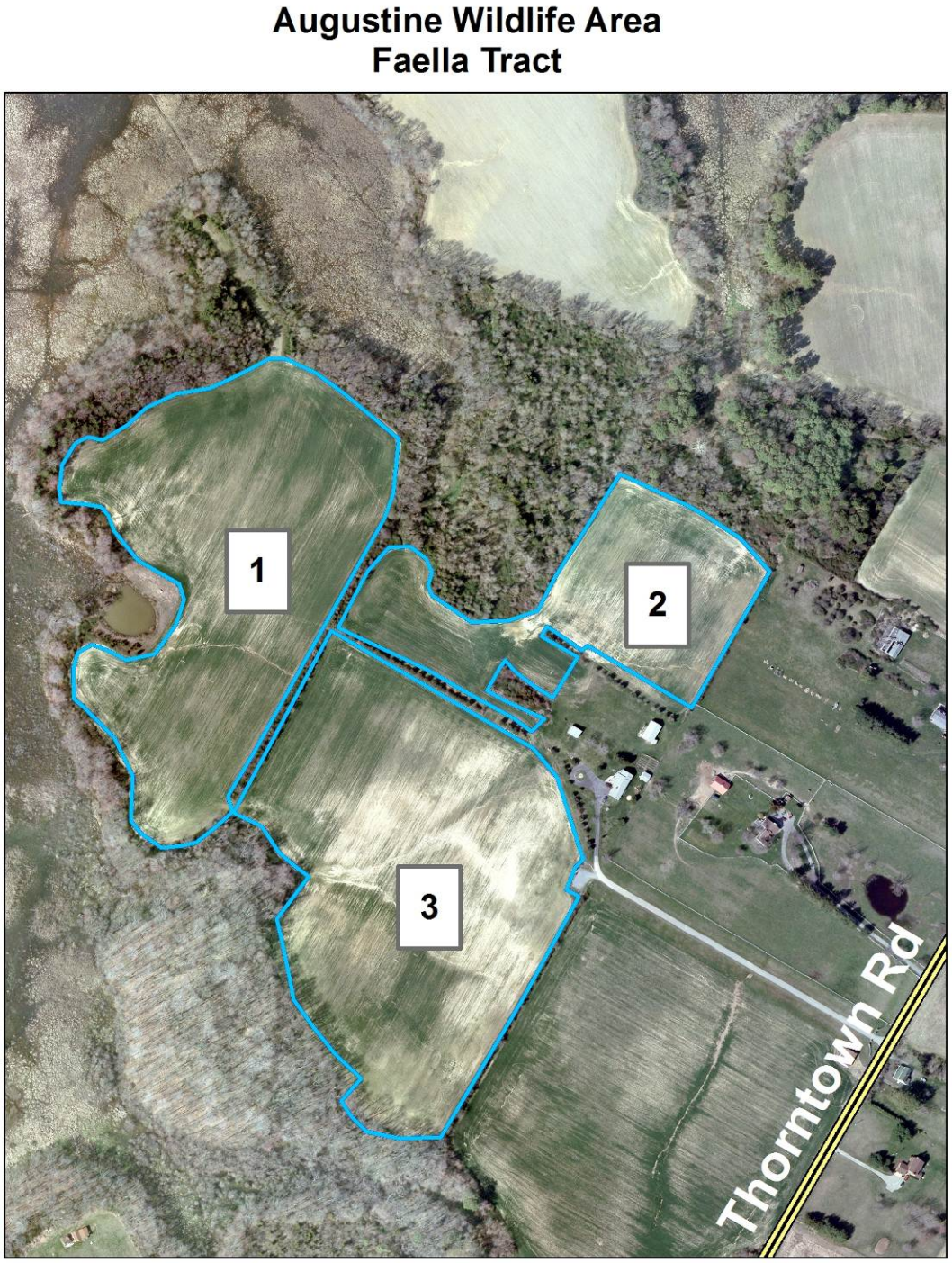

Exhibit 2

Exhibit 2. Aerial view of Augustine Wildlife Area Silver Run Tract showing agricultural fields near Port Penn, Delaware.

Exhibit 3

Exhibit 3. Aerial view of Augustine Wildlife Area Green Tract showing agricultural fields near Port Penn, Delaware.

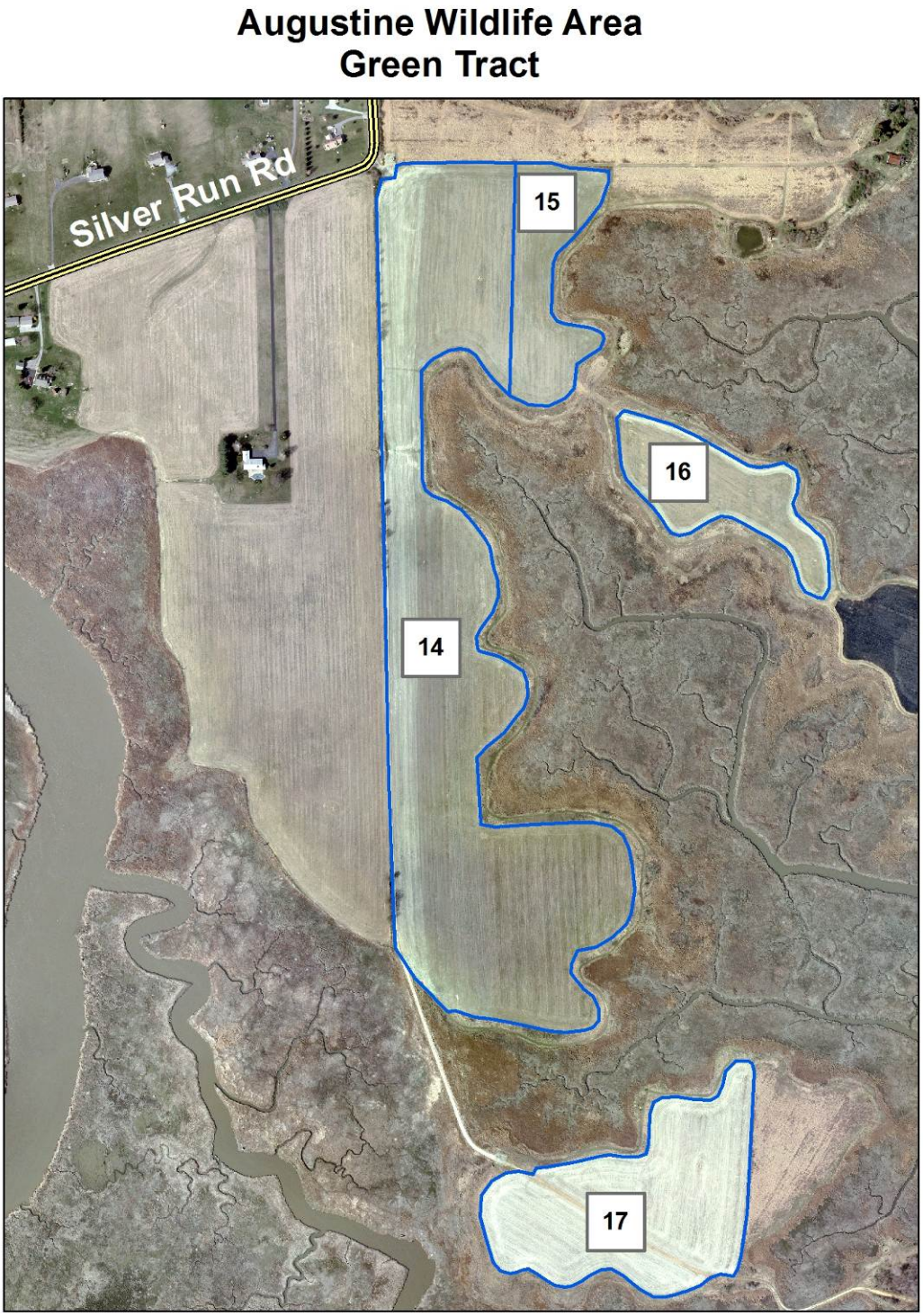

Exhibit 4

Exhibit 4. Agricultural Acres for Augustine Wildlife Area.

Agricultural Field	**Approximate Acres**
1	15
2	8
3	17
4	4
5	13
6	8
7	11
8	8
9	8
10	7
11	11
12*	**2***
13*	**2***
14	36
15	5
16	5
17	13
TOTAL	173

Exhibit 5

LEASE # NAT-18-001_AGLEASE

AGRICULTURAL LANDS
AT
Augustine Wildlife Area – Faella, Silver Run, Green Tracts

THIS LEASE, made and entered into this 15 day of March, 2018, by and between the State of Delaware, Delaware Division of Fish and Wildlife Party of the First Part, hereinafter referred to as "DEPARTMENT,"

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 Fish and Wildlife
   89 Kings Hwy
   Dover, DE 19901

   TENANT: (Tenant Address & Phone No.)

2. **TERM OF LEASE.** The term of this Lease shall be for two (2) crop season years beginning on March 15, 2018 and terminating on December 31, 2019, without notice of such termination.

3. **RENTAL FEE.** TENANT shall pay DEPARTMENT an annual rental fee of (amount) Dollars ($). The annual rental fee is based on (amount) Dollars ($) per acre charge for approximately 173 acres. DEPARTMENT does not guarantee the exact total acreage of leased land. Twenty-five percent (25%) of rental fees shall be paid to DEPARTMENT on or before March 15 and seventy-five percent (75%) on or before October 31 for that lease year. Failure to make timely payments shall be a condition to which the DEPARTMENT may terminate this lease at any time.

4. **SECURITY INTEREST.** TENANT hereby grants to DEPARTMENT 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 DEPARTMENT, as well as payment of any and all sums now, heretofore and hereafter owing to DEPARTMENT by TENANT as a result of TENANT entering into this Lease with DEPARTMENT.

5. **USE OF LEASED LAND.** The leased land may be used for producing agricultural commodities, including, but not limited to, grain, vegetable, and forage crops. 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) DEPARTMENT reserves the right to cancel this 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. Should DEPARTMENT chose to terminate this lease prior to crops being harvested the termination date will be five (5) days after the last crops are harvested. Furthermore if DEPARTMENT terminates this lease prior to crops being harvested, TENANT agrees to harvest said crops in a timely fashion within normal agricultural harvesting seasons. This lease shall not be subject to subleasing on the part of the TENANT.

b) TENANT shall pay twenty-five percent (25%) of the annual rental when the contract is awarded. In subsequent years of the contract, the twenty-five percent (25%) payment is due on or before March 15. The remaining balance of the annual rental, seventy-five percent (75%) shall be due on or before October 31 of each year of the lease. Failure to make timely payments shall be a condition to cancel the lease at any time. In addition, TENANT must agree to grant a security interest (lien) in farm crops, not limited to soybeans, sorghum, or corn, standing, grown, in storage or in transit, which are grown on described rental property, to insure performance by the TENANT under all agreements with the DEPARTMENT. The TENANT must provide the DEPARTMENT with a list of grain dealers that will be receiving crops grown on Division lands to insure execution of security interest.

c) Term lease: Two (2) crop season years, beginning March 31, 2018 and automatically terminating without written notice by the DEPARTMENT on December 31, 2019.

d) Fields with the approximate acreage that are offered for lease are outlined on the attached maps and table. The DEPARTMENT does not guarantee the exact acres of land for rent.

e) Corn, sorghum, or soybeans will be grown at the discretion of the TENANT unless otherwise directed in writing by the DEPARTMENT. In every field, four (4) productive rows of corn or fifteen (15) feet of soybeans shall be left unharvested on all sides of each field except the sides along paved or dirt roads. Failure to leave the required standing crop shall result in cancellation of this contract. Crop left in the field after combining by mechanical picker will not be removed until March 15 of each year.

f) Unless following a wheat/soybean double crop, a cover crop must be planted on all fields where unharvested crops are not required to be left standing. Cover crops may consist of rye, wheat, barley, oats, winter peas, radishes, turnips, or other winter crops as approved by the Delaware Division of Fish and Wildlife. Lessee is cautioned that winter grains may be damaged by wintering waterfowl. Should it not be practical to establish a cover crop in a timely fashion due to weather or other agricultural related issues Lessee shall immediately notify the Delaware Division of Fish and Wildlife. Failure to plant required cover crops or notify DEPARTMENT shall be a condition to which the DEPARTMENT may terminate this lease at any time.

g) DEPARTMENT reserves the right to prohibit the use of certain agricultural pesticides on their lands. The use of carbofuran (Furadan) liquid or granular is prohibited on DEPARTMENT lands. DEPARTMENT reserves the right to prohibit other restricted use compounds. TENANT may be requested to submit a listing of pesticides to be used on DEPARTMENT lands. Violation of Federal, State, or Division pesticide regulations shall be a condition to cancel the lease.

h) TENANT shall enter into a Nutrient Management Plan for the leased land with the Delaware Department of Agriculture. The plan shall follow all appropriate state regulations including those pertaining to use of animal waste manure. TENANT will be required to apply lime at sufficient rates to maintain the soil pH between 5.8 and 6.5, to be monitored annually by the TENANT through soil sample analysis. Fertilizer shall be applied at an equal rate on both crops to be harvested by the TENANT and those left unharvested for the DEPARTMENT.

i) TENANT shall not plow, disk, or otherwise till any areas until March 15 of each year in order to leave food and cover for wildlife during the winter, except when planting an approved cover crop as required by this lease, or as otherwise approved by the DEPARTMENT.

j) No tillage, mowing, or herbicide applications will be permitted in areas taken out of production without advance written consent of the DEPARTMENT. These areas are marked by DEPARTMENT signs. The acreage of these areas has been subtracted from the total rental acreage calculation.

k) Scare devices (flags, exploders, etc.) are prohibited on lands leased by the DEPARTMENT.

l) TENANT shall be responsible for the control of noxious weeds growing on leased lands as declared by the Delaware Department of Agriculture, with the exception of those lands referenced in the previous condition (n) which will be the responsibility of the DEPARTMENT. Failure of TENANT to comply with Department of Agriculture noxious weed control measures shall be a condition to cancel the lease.

m) DEPARTMENT reserves the right to create new hedgerows, ponds, buffer strips, or divert land for other uses. Any lands diverted for these will not affect the contract bid price unless such diversion exceeds three percent of the tillable acreage. DEPARTMENT will deduct a proportional amount from the annual rent for diversions exceeding three percent.

n) All hunting and trapping rights and privileges and all land use except agricultural tillable rights are reserved by the DEPARTMENT. TENANT is advised to harvest all crops as early as possible each year to prevent damage due to hunting as these lands will be open to public hunting. The DEPARTMENT will not be held responsible for any damage to the TENANT's crops or machinery.

o) The successful bidder agrees to give preference in employment to bona fide legal citizens in this state who have established citizenship by residence of at least ninety (90) days in the state.

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

6. **RESERVED RIGHTS.** DEPARTMENT reserves the following rights related to the leased land:

   a) DEPARTMENT 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) DEPARTMENT reserves the right to create pathways, buffer strips, and hedgerows or to divert land for other Department uses. Any lands diverted for these purposes will not affect the contract bid price unless such diversion exceeds three percent of the tillable acreage. The Division will deduct a proportional amount from the annual rent for diversions exceeding three percent.

   c) DEPARTMENT 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 DEPARTMENT and for any other lawful purpose.

7. **HOLD HARMLESS.** TENANT agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the successful bidder, its employees, and invitees on or about the premises and which arise out of the successful bidder's performance, or failure to perform as specified in the Agreement.

8. **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.

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

10. **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.

11. **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.

12. **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.

13. **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.

14. **LEGAL COSTS AND EXPENSES.** TENANT shall pay and discharge all costs, attorneys' fees and expenses arising from enforcing any covenant or forfeiture hereof.

15. **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.

16. **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.

17. **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.

18. **TIME.** Time is of the essence of this Lease.

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

20. **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.

21. **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.

22. **SPECIAL PROVISIONS**:

a. Fields 12 and 13 are to be planted each year by the TENANT in corn, soybeans, grain sorghum or sunflowers and left unharvested to provide a wildlife food source. TENANT is required to maintain soil fertility and pH in fields 12 and 13 at the same level as all other leased fields.

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

STATE OF DELAWARE
DELAWARE DIVISION OF FISH AND WILDLIFE

_____ By: _____
Witness David E. Saveikis
Director
Delaware Division of Fish and Wildlife

TENANT

_____ By: _____
Witness Tenant Signature

SECTION E

VENDOR BID SECTION

To be considered for this Lease, complete the following forms fully and completely and return to Delaware Division of Fish and Wildlife, 89 Kings Hwy, Dover, DE 19901 by **January 26, 2018 at 10:00AM** local time, at which time bids will be opened.

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

1. **Non-Collusion Statement**
2. **Vendor Bid Offer Form**
3. **Brief description of experience relative to the conditions of this Request for Proposal**
4. **Assertion of ability to meet the conditions of the lease provided in Exhibit 2**
5. **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

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DELAWARE DIVISION OF FISH AND WILDLIFE

AGRICULTURAL LAND LEASE
OFFER FORM

PROPOSAL DUE: January 26, 2018 at 10:00AM local time

TO: State of Delaware
Delaware Division of Fish and Wildlife
89 Kings Hwy
Dover, DE 19901

AGRICULTURAL LAND LEASE BID FOR:
AUGUSTINE WILDLIFE AREA – FAELLA, SILVER RUN, GREEN TRACTS; ACRES – 173

1. <u>Ability to Perform</u>

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

- ☐ 0-5
- ☐ 5-10
- ☐ 10-15
- ☐ 15-20
- ☐ 20-25
- ☐ 25+

b. Have you held a previous State agricultural lease? YES / NO
c. Are you a current State agricultural lease holder? YES / NO
d. Have you ever lost/defaulted on a State Agricultural lease? YES / NO

2. <u>Best Management Practices</u>

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

3. <u>Additional Services</u>

Please list any additional services you are willing to provide as part of this lease including a monetary equivalent price per acre for each service offered. (Example: "I will leave an additional 3 acres of standing unharvested crop in field 12 at a cost to me of $600/acre.")

4. <u>Cost</u>

The undersigned, representing that he/she received a Bid Packet, read the Instructions to Bidders, reviewed the map of lands subject to lease (Exhibit 1-4), reviewed the agricultural lease (Exhibit 5) 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 three (3) years beginning 2014 through 2016.

$ _____ (per year of agricultural lease)

$ _____ (per acre)

This proposal is submitted with a certified check made out to Delaware Division of Fish and Wildlife 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 October 31, 2014 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 Fish and Wildlife 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 Fish and Wildlife shall award an agricultural land lease to the highest qualified bidder. The successful bidder shall be notified within thirty (30) working days.

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.

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STATE OF DELAWARE
Delaware Division of Fish and Wildlife
89 Kings Hwy
Dover, DE 19901

NO BID REPLY FORM

BID # NAT-18-001_AGLEASE
BID TITLE: Augustine Wildlife Area – Faella, Silver Run, Green Tracts

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. We cannot submit a Bid because of the marketing or franchising policies of the manufacturing company.

_____ 5. We do not wish to sell to the State. Our objections are: _____

_____

_____ 6. We do not sell the items/services on which Bids are requested.

_____ 7. Other:_____

_____ _____
FIRM NAME SIGNATURE

CONTRACT NO: **NAT-18-001_AGLEASE**
TITLE: **Augustine Wildlife Area – Fealla, Silver Run, Green Tracts**
OPENING DATE: **January 26, 2018**

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: (Please circle)	*Women Business Enterprise (WBE)*	Yes	No	*Minority Business Enterprise (MBE)*	Yes	No	*Disadvantaged Business Enterprise (DBE)*	Yes	No

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 _____