



IDAHO DEPARTMENT OF LANDS

ELMORE COUNTY WIND LEASE

Elmore County, Idaho

REQUEST FOR PROPOSALS FOR WIND LEASE OF STATE ENDOWMENT TRUST LAND

SUBMISSION DEADLINE: NOVEMBER 30, 2022 – 5:00 PM (MST)

1. INTRODUCTION

1.1 Background

The Idaho Department of Lands (“IDL”) functions in 16 offices throughout the state and manages more than 2.4 million acres of state endowment trust lands (“Endowments Lands”). Endowment Lands are managed under a Constitutional mandate for the Idaho State Board of Land Commissioners (“Land Board”) to maximize long-term financial returns to the endowment beneficiaries. To learn more about IDL’s agency, mission, vision, and values, please visit our website at <https://www.idl.idaho.gov/about-us/>.

1.2 Objective

IDL is issuing this Request for Proposal (“RFP”) with the purpose of selecting a wind lease tenant for the property known as Elmore County Wind Lease, located in Elmore County, Idaho.

1.3 Proposed Leased Premises

The lands subject to this RFP (“Leased Premises”) are Endowment Lands that are more particularly described as follows:

Legal Description

Township	Range	Section	Legal Description	County	Endowment	Acres
04S	09E	16	NWSW, NESW, NESE, SWSW, SESW, SWSE, SESE	Elmore	PS	280

The Leased Premises contains a total of approximately 280 acres. Maps of the Leased Premises are included as Attachment 3.

1.4 Project Manager

The project manager for this project is Jason Laney. For information concerning the RFP, please direct your questions to him using the Questions or Modification Proposal Form (Attachment 1). His contact information is:

Jason Laney, Leasing Section Manager
Department of Lands, Director’s Office
300 N. 6th St, Suite #103
Boise, Idaho 83720
208-334-0278
ilaney@idl.idaho.gov

1.5 Instructions

It is the responsibility of each party submitting a proposal (“Proposer”) to follow the format required in the RFP. When preparing your response, provide complete answers and descriptions and submit the proposal by the RFP deadline.

1.6 RFP Requirements

The following are the RFP requirements:

- a. Submission by Proposer of a complete proposal by the RFP deadline of **5:00 pm (MST) on November 30, 2022.**
- b. A transmittal letter which lists the full and complete legal name (including state of origin of legal entity) of Proposer, address of Proposer, and contact information for an authorized representative who can be contacted by the IDL concerning the proposal.
- c. If the Proposer is a corporation or other legal entity, or is signing on behalf of another individual, the person signing any proposal on behalf of any such legal entity or other individual must provide proof of authorization to sign on behalf of any such corporation, legal entity or individual. Proof of authorization might include statutory authority to sign in the capacity as an officer of a corporation, or as a member or manager of a limited liability company; by a resolution of the entity authorizing such individual, or by power of attorney.
- d. Detailed responses to sections 4, 5 and 6 of this RFP document.
- e. Proposed “redlined” revisions to the sample wind/alternative energy lease document provided in Attachment 4 (optional). Please request a WORD version of the document from IDL to submit proposed “redlined” revisions.
- f. Three hardcopy proposals and one digital copy.
- g. A nonrefundable application fee of \$250.00.

2. RFP INFORMATION

2.1 Authority

This RFP is issued under Title 58, chapters 1 and 3, Idaho Code (including §58-101); and Title 47, chapter 16, Idaho Code.

2.2 Costs of Preparing Proposal

It is the responsibility of the successful Proposer to finance or obtain private financing for all costs associated with the design, construction, and operation of the proposal. The Proposer assumes the risk of loss in the submission of any proposal or its operation. IDL is not liable or responsible for any costs or consequential damages incurred by Proposers in proposal preparation, negotiations, or any other costs that may result from activities in connection with the proposal.

2.3 Questions Regarding the RFP

Questions about this RFP must be received in writing utilizing Attachment 1 submitted by email to jilaney@idl.idaho.gov. **The deadline for receiving questions is 5:00 p.m., MST, on November 14, 2022.**

2.4 Confidential Information Exempt from Disclosure

All proposals and submitted materials become public records and the property of IDL. Public records are subject to the Idaho Public Records Law (Idaho Code §§ 74-101 et seq.); and, potentially subject to public disclosure pursuant to a public records request in accordance with the Idaho Public Records Law. In order for information in the proposal or submitted materials to be exempt from disclosure, the information must qualify as an express exemption set forth in the Idaho Public Records Law, specifically I.C. §§ 74-105 through 74-112. The most common information which may be exempt from public disclosure under a public records request are “trade secrets” as defined in I.C. § 74-107(1). All confidential information exempt from disclosure must be specifically listed on the Dedicated Confidential Exhibit Form (Attachment 2) and must specifically identify the type of exemption claimed and the statutory reference in the Idaho Public Records Law authorizing such exemption; and, in addition, must provide a specific reference to where any such information is contained in the proposal. It shall be the Proposer’s responsibility to see that all exempt confidential information is properly listed and identified on the Dedicated Confidential Exhibit. As such, all information in the proposal, other than the exempt confidential information listed on the Dedicated Confidential Exhibit Form which shall be redacted, shall be subject to a public records request. Any claim by the Proposer that confidential information is exempt from disclosure, including a claim that such information constitutes a trade secret, will be reviewed by IDL’s legal counsel. All information deemed not to be subject to a valid exemption under the Idaho Public Records Law shall be subject to a public records request. Upon receipt of a valid public records request, IDL will attempt to notify the Proposer prior to responding to the public records request. If IDL believes any claimed exempt confidential information does not appear to qualify as exempt from disclosure contrary to Proposer’s belief, or if any legal action is brought seeking to require the disclosure of any such claimed exempt information, then prior to IDL’s

disclosure of any such information to the public records request, IDL will notify Proposer of such potential conflict; and if Proposer still believes that any such information is exempt from disclosure, it shall be incumbent on Proposer to obtain, within ten (10) days of the public records request, a protective order or other appropriate order from a court of competent jurisdiction enjoining IDL's duty to disclose any such claimed confidential information in response to a public records request until such issue may otherwise be litigated or otherwise determined by said court. See Attachment 2 for more details.

2.5 Sample Wind Lease Review and Final Wind Lease Drafting

For the purposes of this RFP, the Proposer may provide any proposed edits to the sample wind lease document included as Attachment 4 by creating a "redlined" version of the document.

After a proposal is selected by IDL, IDL shall draft a final wind lease document acceptable to IDL, with input from any such Proposer; provided however, that the terms and conditions of any lease (including a term of up to 49 years, which term may be divided into development, construction, production and decommission phases) offered by IDL shall ultimately be determined by IDL in its sole discretion. In addition to any proposed edits by Proposer to the sample wind lease document submitted with their Proposal, the highest scoring Proposer will be provided 60 days to provide input into the drafting of the final wind lease and to accept the terms of the lease. If the highest scoring Proposer does not agree to the final wind lease document within 60 days, then IDL may, in its discretion, move to the next highest scoring Proposer, extend the period for negotiating the lease, cancel the RFP, or reoffer the RFP.

Once a final lease document is generated, IDL will post the lease on IDL's website as part of IDL's advertisement and auction process in accordance with Idaho Constitution, Art IX, § 8; and I.C § 58-310.

2.6 Compatibility with Lease Terms

Prior to offering a lease, IDL reserves the right to request additional information and data from Proposer to ascertain the proposal's compatibility with the terms of the lease and to modify or impose specific lease terms and conditions based on Proposer, the proposed use, or the proposal.

2.7 Interviews

Proposers selected for final evaluation may be required to present their proposal to IDL and answer questions to clarify their proposal ensuring mutual understanding.

2.8 Evaluation

Proposals not provided in the correct format or incomplete proposals will complicate the evaluation and comparison process and may, therefore, be declared non-responsive. The evaluation process is further explained in section 7 of this RFP.

2.9 Auction Process, Participants, and Fees

Any interested applicant that is qualified to participate in the auction following the RFP evaluation (that has not already paid the application fee for the RFP submission), will be required register for the auction by the established registration deadline and pay the \$250.00 nonrefundable application fee to participate in the auction.

2.10 Land Board

IDL reserves the right to present any selected proposal and lease, as well as the results from any auction to the Land Board for approval at a regular monthly meeting. This requirement may delay or halt the awarding of a proposal or lease execution. If a proposal or lease is not approved by the Land Board, the auction premium bid will be refunded to the Proposer.

2.11 Environmental Impacts

Proposer guarantees that all items provided by Proposer in the response and performance of this RFP meet or exceed all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, all applicable requirements and guidelines established by the Occupational Safety and Health Act, Consumer Product Safety Council, Environmental Protection Agency, or other applicable regulatory agencies; and Proposer agrees to defend and hold harmless the state of Idaho and IDL for any such reliance thereon.

3. LIMITATIONS AND RESERVATIONS

3.1 RFP Limitations and Reservations

The RFP shall include the following limitations and reservations:

- a. Any proposal not meeting the requirements set forth in this offering may be rejected as non-responsive at the discretion of IDL or the Land Board.
- b. IDL reserves the right to waive technical defects in this RFP in its discretion.
- c. IDL reserves the right to request additional information and data from Proposer to ascertain Proposer's capabilities and desire to develop the leased premises. Any request for information by IDL to Proposer is to assist IDL to better understand the proposal. Such a request for additional information shall not be considered to constitute a binding agreement or commitment by IDL in any manner.
- d. IDL reserves the right to reject any and all proposals for this RFP if the proposals are not in the best interest of the state of Idaho and the endowment beneficiaries, and the right to reoffer the RFP if the proposals received are not acceptable to the IDL and the Land Board.

3.2 Proposed Lease Limitations and Reservations

The final wind lease shall include the following limitations and reservations:

- e. The use of the Leased Premises must not reduce the value of the Leased Premises.
- f. The storage or disposal of any toxic, hazardous, or deleterious substances must comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.
- g. The use of the Leased Premises must comply with all applicable federal, state, and local laws, rules, regulations, and ordinances. It is the sole responsibility of Proposer to ensure that the proposal and proposed use of the Leased Premises meet all applicable federal, state, and local laws, rules, regulations, and ordinances.
- h. If Proposer is awarded and executes the lease, then Proposer, as lessee, will be solely responsible for all costs and expenses incurred or to be incurred in the design, development, construction, operation, and maintenance of all improvements upon the Leased Premises. Neither IDL, the Land Board, the state of Idaho, nor any other board or agency of the state of Idaho will be held liable or responsible for any costs or expenses incurred or to be incurred, including, but not limited to, the costs and expenses incurred, or which may be incurred in the preparation of any proposal, negotiation for lease, procurement of financing, or operations under the lease.
- i. If site development results in excess native materials (topsoil, fill dirt, boulders, etc.), IDL may, within the terms of the lease agreement: 1) reserve those materials and require transport of materials to a designated stockpile area on nearby Endowment Lands; 2) establish a market price and sell the material for use elsewhere; or, 3) require lessee to remove the material for off-site disposal.
- j. Lessee will be responsible for the payment of all taxes, assessments, levies, fees, and other charges assessed or levied upon the leasehold interest or upon any property owned by lessee, in addition to any applicable income and beneficial use taxes. Lessee will also be responsible for payment of any and all Special Improvement District (SID) or Rural Improvement District (RID) fees that may be assessed.
- k. Upon expiration or cancellation of the lease, IDL reserves the right to require lessee to remove and or reclaim all improvements constructed on the parcel during the term of the lease, at the expense of lessee.
- l. Prior to the commencement of the construction phase of the lease, lessee will be required to post bonds, sureties, guarantees, or a letter of credit sufficient to ensure that the commercial uses and activities will be conducted as proposed, with no harm to the financial interests of the endowment beneficiaries. Leases that include the use of a hazardous substance must be bonded to ensure cleanup of the hazardous substance in the event of a spill or other contamination event that assures the protection of public health, safety, and welfare of the environment in a manner that protects the long-term financial interest of the endowment beneficiaries.

- m. Pursuant to Idaho Code § 58-310(4), IDL and the Land Board reserve the right to reject any and all lease auction bids when, in their judgment, there has been fraud or collusion, or for any other reason which justifies rejection of the bids.

4. QUALIFICATIONS (Required for the Proposal Submission)

4.1 Statement of Qualifications

Each Proposer shall list and describe Proposer's business entity structure, including its officers, members, managers, general partners, managing entity, and key employees that will directly oversee the development, operation, and maintenance of the proposed project. The proposal shall include a separate statement of qualifications for each of such individual and key employee, as well as the primary duties of each key employee. Each statement of qualifications must discuss the person's training, experience, and education that relates to the proposed project. Proposer may provide names and addresses of references. In any instance where a proposal indicates that separate legal entities will possess combined management, fiscal, or legal responsibilities, Proposer shall describe the legal relationship between the entities, including any such entity's structure, including its officers, members, managers, general partners, managing entity, and key employees that will directly oversee the development, operation, and maintenance of any portion of the proposed project, as well as the statements of qualifications set forth above. In addition, if Proposer is a legal entity, then Proposer shall identify the state of origin, provide a copy of any organizational document, articles of incorporation, operating agreement, or other similar documentation, including, but not limited to, certificates of authority to do business in Idaho, and any applicable certificates of good standing with the Secretary of State's office in Idaho as well as any other state in which any such business entity originated.

4.2 Financial Ability and Cash Flow Analysis

Before accepting any proposal for a wind lease and prior to the execution of any such lease, IDL shall establish to its satisfaction, the financial capability of Proposer and the legal authority of Proposer to conduct business in the state.

The proposal must include:

1. Financial Ability of Proposer
 - a. Statement of net worth.
 - b. Profit and loss statement dated within 90 days of the RFP release date.
 - c. Disclosure of any past bankruptcy or loan defaults.
 - d. Operating agreement (when applicable)
2. Cash Flow Analysis
 - a. Pro forma forecasting income, costs and debt service, and earnings for the first ten years of the operation of the proposed project, along with a discussion of the economic assumptions upon which the projections are based.

3. Experience
 - a. Proposer shall provide evidence of experience in the field that is being proposed for the Leased Premises.
4. Project Commitment
 - a. Reasonable estimate of number of acres proposal may reasonably require within the Leased Premises. This information will be used by IDL to assess whether multiple projects can make use of the area of the Leased Premises, in which event any given lease may specify a smaller number of acres or area different than the total available acreage and area of the Leased Premises identified herein.
 - b. Describe the status of discussions or agreements for interconnection with Idaho Power or other utility purchasers and due diligence that has been committed to the development of the Leased Premises.

5. PROPOSED DEVELOPMENT PLAN (Required for the Proposal Submission)

5.1 Summary of Proposal

Proposer shall provide the following information in a Summary of Proposal:

1. Description of the proposed use;
2. Estimate of number of actual acres reasonably required for proposed use;
3. Compatibility of proposed project with surrounding uses;
4. Compatibility of proposed project with other alternative energy projects generally; and
5. Acknowledgment of responsibility for payment of all costs associated with developing the project on the Leased Premises.

5.2 Site Plan, Construction, and Operation

All proposed buildings, infrastructure, landscaping, and other improvements to the Leased Premises must conform to all land use regulations of the appropriate jurisdictional authority. Proposals must be planned with adequate access, drainage, and storm water run-off retention to meet any jurisdictional authority's requirements.

1. Proposer shall include a map of the Leased Premises.
2. Proposer shall include basic site layout including the following:
 - a. Proposed uses and location;
 - b. Preliminary location and height of buildings and other structures;
 - c. All other infrastructure to be installed including, but not limited to, substations and utility lines (e.g. water, sanitary, storm sewer, pipes, and power transmission lines); and
 - d. Estimated cost of proposed improvements to the Leased Premises.
3. Proposer shall include the proposed reclamation plan upon decommissioning of the Leased Premises.

IDL retains site plan review, approval authority, and the right to require additional development standards above local standards, as per lease terms.

6. PROPOSED LEASE REVENUE (Required for the Proposal Submission)

6.1 Lease Commencement Fee

Proposer may offer any amount to IDL as a Lease Commencement Fee as part of the proposal to enhance the overall revenue to the endowment beneficiaries and increase the evaluation score of the proposal submitted. The Lease Commencement Fee would be paid to IDL upon execution of the final wind lease document.

6.2 Annual Rent

1. Development Phase Rent - The minimum annual base rent during the Development Phase is calculated by applying the minimum lease rate per acre to the total lease area. A minimum annual rent escalator will apply to the account for changing land values and inflationary factors. A response to this section must include a fee schedule table similar to Attachment 5.
2. Construction Phase Rent – The minimum Construction Phase rent cannot be less than the Development Phase rent. The proposal shall include a Construction Phase annual rental fee on a per megawatt (MW) installed nameplate capacity of the turbines or solar panels.
3. Operation Phase Rent – The Operation Phase rent is the greater of the following:
 - a. Royalty rental fee based on a percent of gross annual revenues of the renewable energy facilities located on the proposed site.
 - b. Annual rental fee based on a set dollar amount per MW of installed nameplate capacity from energy generation facilities located on the proposed site. The annual rental fee per MW must include a rent escalator to account for changing land values and inflationary factors.
4. Decommission Phase – The minimum annual base rent during the Decommission Phase is calculated by applying the minimum lease rate percentage to the land value. The proposal shall include a Decommission Phase annual rental fee in the form of a percentage of the appraised value as described in section 6.2.

6.3 Market Value Appraisal

During the Decommission Phase, the new market value of the real estate is based on a new MAI appraisal of the land only. The appraisal will not include the value of the improvements.

7. PROPOSAL EVALUATION

7.1 Evaluation of Proposals

Proposals that are determined to be responsive (submitted by the RFP deadline with all deliverables, in the correct format, and with all required information) will be evaluated to determine how closely the RFP meets IDL's requirements. Evaluation and scoring of RFP's will be conducted by IDL within two weeks following the RFP deadline. A nonresponsive proposal will not be scored.

When the proposals are evaluated, the points awarded for each component will be based on the Proposer's response to the RFP requirements. The total points awarded for each component will be added together to create the final scores. The evaluation components, including the maximum points that may be awarded, are as follows:

1. Qualifications	300
2. Proposed Development Plan	200
3. Proposed Lease Revenue	500

The RFP will be considered nonresponsive if items 1-5 below are not included in the proposal:

1. Transmittal Letter
2. Proof of authorization to sign on behalf of the corporation or entity submitting the proposal
3. Three hardcopy proposals and one digital copy of the proposal
4. Non-refundable Application Fee
5. Detailed responses to sections 4, 5 and 6 of the RFP document.

ATTACHMENT 1

QUESTIONS OR MODIFICATIONS PROPOSAL FORM

PLEASE DO NOT IDENTIFY YOUR NAME OR YOUR COMPANY'S NAME OR PRODUCT NAMES OF INTELLECTUAL PROPERTY IN YOUR QUESTIONS.

ADD ROWS BY HITTING THE TAB KEY WHILE WITHIN THE TABLE AND WITHIN THE FINAL ROW.

The following instructions must be followed when submitting questions using the question format on the following page.

1. DO NOT CHANGE THE FORMAT OR FONT. Do not bold your questions or change the color of the font.
2. Enter the RFP section number that the question is for in the "RFP Section" field (column 2). If the question is a general question not related to a specific RFP section, enter "General" in column 2. If the question is regarding a State Term and Condition or a Special Term and Condition, state the clause number in column 2. If the question is in regard to an attachment, enter the attachment identifier (example "Attachment A") in the "RFP Section" (column 2), and the attachment page number in the "RFP page" field (column 3).
3. Once completed, this form is to be e-mailed per the instructions in the RFP. The e-mail subject line is to state the RFP number and/or project name followed by "Questions."

WIND LEASE ON STATE ENDOWMENT TRUST LAND

Question Number	RFP Section	RFP Page	Question
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

Questions Due: May 27, 2022, at 5PM MST

ATTACHMENT 2

DEDICATED CONFIDENTIAL MATERIALS EXHIBIT FORM

I. PROCEDURE FOR CONFIDENTIAL TREATMENT OF MATERIAL SUBMITTED.

All confidential filings: Please attach this request form to each material requested for confidential treatment. The request form itself is not confidential and is a public record. Any request for confidential handling, including trade secrets will be reviewed for confidentiality by Idaho Department of Lands (“IDL”) Legal Counsel before further consideration of the material to which the request relates. **In general, requests for confidential treatment will be strongly disfavored and granted only for extraordinarily compelling reasons.** IDL will promptly notify the Proposer of the extent to which IDL is willing to agree to treat the designated material in as confidential and the manner in which IDL is willing to handle that material, requesting a response from the Proposer within two business days. If IDL is not willing to agree to the Proposer's request for confidential handling in its entirety, IDL and the Proposer will discuss the matter in an effort to reach a written agreement on the confidential treatment of materials. Only a written agreement, signed by IDL, will be binding on IDL.

II. REQUEST FOR CONFIDENTIAL TREATMENT.

Proposer’s Name: _____

Address: _____

Phone: _____

Email: _____

1. What is the Title, date, and description (including number of pages) of the information for which you request confidential designation?

2. Specify the part(s) of the information for which you request confidential designation.

3. **State the provision(s) of the Public Records Act (Idaho Code §74-106) or other law that allows the Idaho Department of Lands to keep the information confidential and explain why the provision(s) apply to that material.**

4. **Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.**

5. **State whether the information can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the Proposer). State the degree of aggregation or masking required. If the information cannot be disclosed even if aggregated or masked, explain why?**

6. **State how the material is kept confidential by the Proposer and whether it has even been disclosed to a person other than an employee of the Proposer. If it has, explain the circumstances under which disclosure occurred.**

7. State other restrictions on disclosure, use, and handling of the material requested.

By signing this Dedicated Confidential Materials Exhibit, the undersigned certifies that he or she has authority to do so on behalf the Proposer. The undersigned agrees to the procedure described in section I of this statement and that there is no claim to confidential treatment for any material submitted by Proposer not clearly identified and marked "CONFIDENTIAL."

Dated: _____

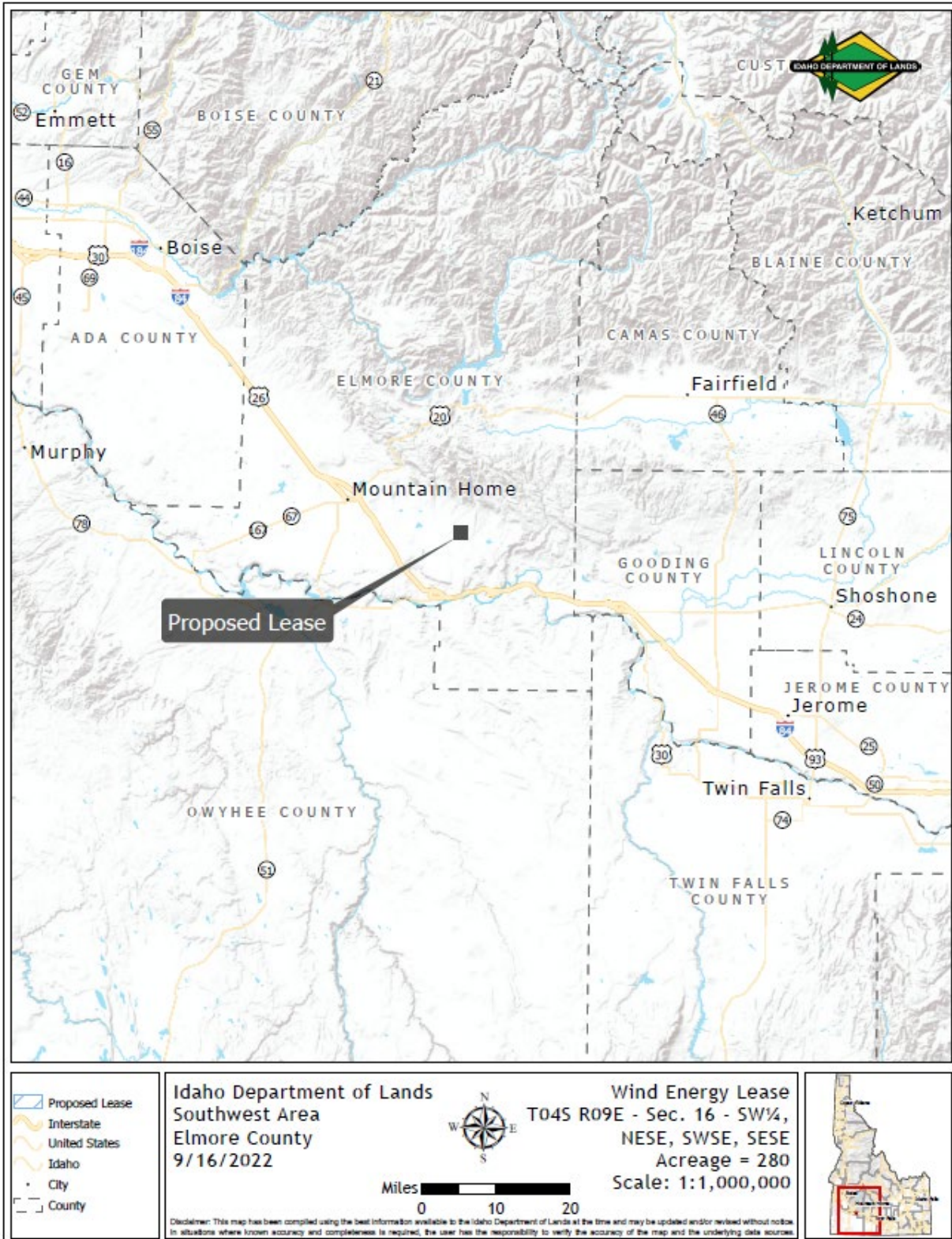
Signed: _____

Name (print or type): _____

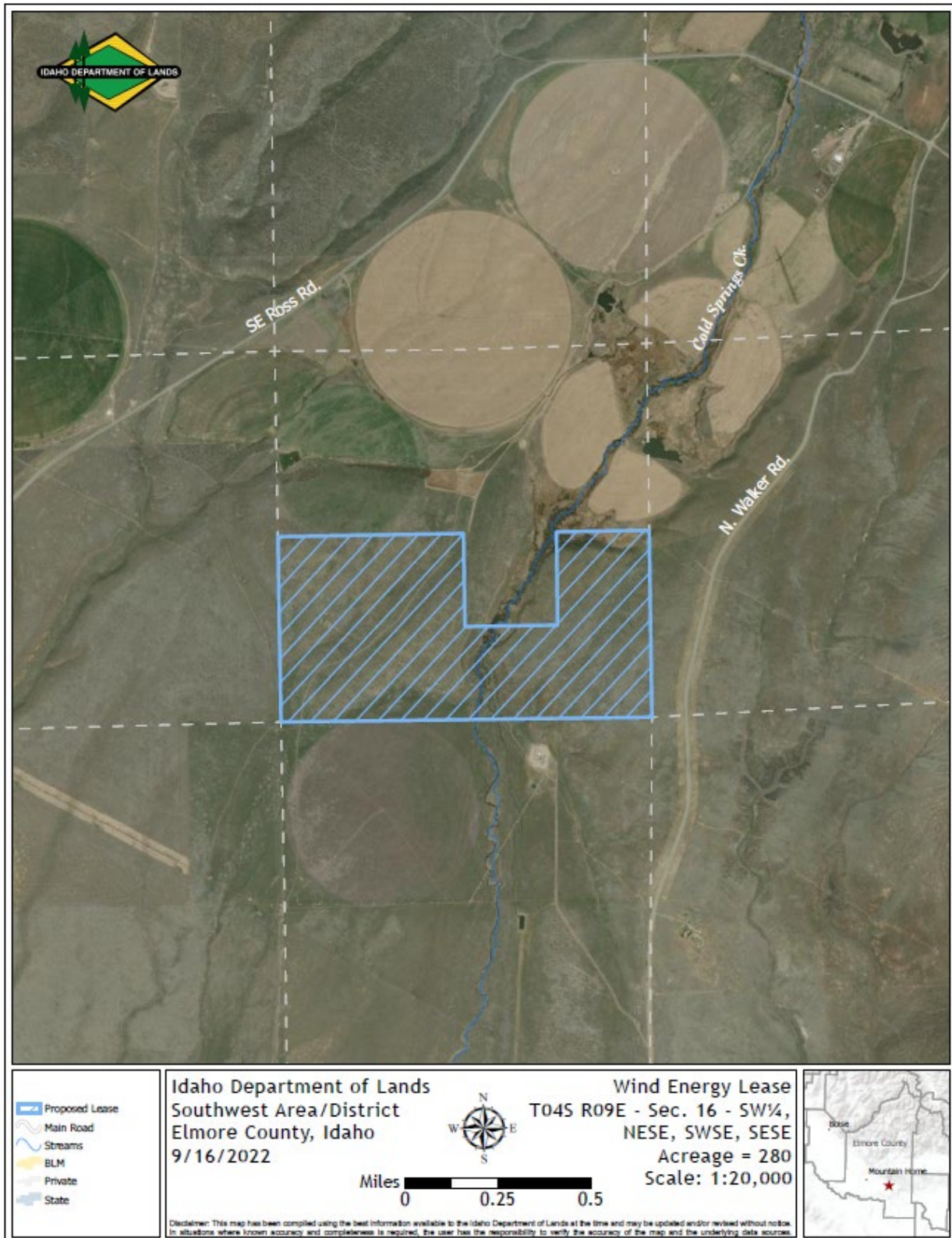
Title: (print or type): _____

Representing: _____

ATTACHMENT 3 Map of Proposed Lease - Overview



Map of Proposed Lease - Detail



ATTACHMENT 4
Sample Wind Energy Lease

PLEASE CONTACT JASON LANEY (ilaney@idl.idaho.gov) FOR THE MOST
RECENT WIND ENERGY LEASE TEMPLATE

ATTACHMENT 5 Proposed Fee Schedule

An electronic version of this table is available for download at:
<https://www.idl.idaho.gov/energy-resource-leasing/>

Rent Per Acre During Research and Development Phase										
Appraised Value/Acre		\$800								
Desired Acres (NTE 7,000)		0								
Lease Rate Per Acre		0.00%								
Annual Rent Escalator		0.00%								
Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8			
\$0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Construction Rent Phase					The values in the yellow boxes can be changed to manipulate the yearly totals. The Construction Phase rent cannot be less than the Development Phase rent. During the Operational Phase, the annual rental fee per MW must include a rent escalator to account for changing land values and inflationary factors. The Operational Phase rent is the greater of the Royalty Rental fee or the annual rental fee per MW of installed nameplate capacity.					
Annual Baseplate per MW Fee		\$0								
Operational Rent										
Proposed Installed MW		0								
Annual Baseplate per MW Fee		\$0								
Annual Increase as a %		0.00%								
Year 1-5	Year 6-10	Year 11-15	Year 16-20	Year 21-25						
\$0	\$0	\$0.00	\$0.00	\$0.00						
Royalty Rental fee										
Gross Annual Revenue		\$0								
Year 1-5	Year 6-10	Year 11-15	Year 16-20	Year 21-25						
0.0%	0.0%	0.0%	0.0%	0.0%						
\$0	\$0	\$0	\$0	\$0.00						