



**CITY OF YAKIMA**  
**REQUEST FOR PROPOSAL # 11901P**  
**Lease of 1808 No. 1<sup>st</sup> St., Yakima, WA**  
**COVER SHEET ~ THIS IS NOT AN ORDER**

RFP Release Date: **December 21, 2018**

**Proposal Receipt:** Proposal envelope must be sealed and plainly marked with due date, time, and Request for Proposal (RFP) Number 11901P, and the words "DO NOT OPEN" and delivered to the address listed below. **Late proposals will be rejected.** Proposals MUST be date and time stamped on or before the date and time listed below that the proposal is due. Proposal openings are public. Proposals shall be firm for acceptance for ninety (90) days from date of proposal opening, unless otherwise noted. **Deliver to:**

**City of Yakima Clerk's Office**  
**129 North 2nd Street**  
**Yakima, WA 98901**

**Do not bring your proposal in to the opening room. Proposal must be received and date stamped by the Clerk's Office**

Proposals Must be in the office no later than

**January 25, 2018 at 11:00 AM PST**

Public Opening

Purchasing For:

**City of Yakima City Manager's Office**  
**129 No. 2<sup>nd</sup> St.**  
**Yakima, WA 98901**

PROPOSER'S Name & Address (to be filled out by proposer):

Buyer in charge of this procurement (Contact for further information):

**Sue Ownby, Procurement Manager**

Phone

E-Mail Address

**(509) 576-6695**

[Sue.Ownby@yakimawa.gov](mailto:Sue.Ownby@yakimawa.gov)

**PROJECT DESCRIPTION SUMMARY**

**LEASE, OCCUPY, DEVELOP, USE AND ULTIMATELY PURCHASE 1808 No. 1<sup>ST</sup> St, YAKIMA, WA**

Check if you are a WMBE or DBE Vendor and list certification Number: \_\_\_\_\_

I hereby acknowledge receiving **addendum(a)** \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (use as many spaces as addenda received)

In signing this proposal we also certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other Proposer, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the opening of proposals to any other Proposer or competitor; that the above statement is accurate under penalty of perjury. We will comply with all terms, conditions and specifications required by the City of Yakima in this Request for Proposal and all terms of our proposal.

Name of Authorized Company Representative (Type or Print)	Title	Phone ( )
		Fax ( )
Signature of Above	Date	Email Address

**City of Yakima**  
**REQUEST FOR PROPOSALS (RFP) NO. 11901P**  
**for**  
**Lease of 1808 No. 1st St., Yakima, WA**

**1. PURPOSE:**

The City of Yakima is inviting Proposals from qualified firms interested in the lease, and ultimate purchase, of a prime real estate parcel currently owned by the City of Yakima and located at 1808 No. 1<sup>st</sup> St., Yakima, WA (the vacated Tiger Mart).

**2. CITY GOALS:**

The City of Yakima's City Council has outlined a number of priorities; the introduction of new economic development engines is a core strategic goal. This RFP requests proposals that demonstrate a vision of community improvement, economic development and quality of life enhancements. Being at a main entry point to the City of Yakima, and due to the constraints of the parcel relating to size, the city would like to see a development oriented toward general merchandising, restaurant, office or community and customer service establishments. However, any proposal will be considered on its own merits.

**3. NORTH 1<sup>ST</sup> STREET IMPROVEMENTS:**

The City is currently out to bid to reconstruct N. 1<sup>st</sup> Street from 200 feet S. of "N". St. to SR12. Improvements include replacing the existing roadway infrastructure, including the curb, gutter and sidewalk, constructing median islands, replacing the old water main, installing sanitary sewer, reconstructing the stormwater collection system, upgrading the street illumination system, installing pedestrian lighting, planting street-friendly trees and other landscaping, and installing benches, trash receptacles and bike racks. The new roadway section, will consist of two 11-foot lanes each way, an 11-foot two-way left-turn center lane, 5-foot bike lanes and 8.5-foot sidewalks. The City is out to bid on the revitalization project at this writing, and bids open January 3, 2019. Construction should begin approximately in March and wrap up by late 2019. The City will be installing sewer to this parcel as part of Phase 1 of the North St Street Revitalization Project.

**4. SITE DESCRIPTION AND REMEDIATION ACTIVITIES:**

See attached Lease/Purchase Option Agreement for Legal Description. The site is located at 1808 North 1<sup>st</sup> Street in Yakima, Washington, and is zoned "Light

Industrial". The site is bordered by arterial roadway North 1<sup>st</sup> Street to the east and Sun Country Inn to the south and west of the site. A paved entrance to the All Star Motel and Ron Nehl's Auto Sales is located to the north.

The parcel has a store that operated as a retail gasoline station and convenience store until closure in 2001 and has been empty since. In 1982, a release of approximately 12,000 to 22,000 gallons of leaded and unleaded gasoline from delivery lines occurred between the tanks and dispensers. In 2005, four UST's were decommissioned and removed.

Groundwater monitoring activities were conducted March 10, 2015 at the site by GeoEngineers from Spokane, WA, as indicated in the attached site map. The report concluded that "Site contaminants of concern were not detected at concentrations exceeding MTCA Method A cleanup criteria in groundwater samples obtained during the March 2015 groundwater monitoring event." The full report can be reviewed [HERE](#).

The City seeks to contract with a partner to develop the property for commercial purposes permitted by the City and by the current zoning requirements, and to purchase the property at such time as the Washington State Department of Ecology (DOE) issues a "No Further Action" (NFA) letter to the City releasing the Property from future environmental remediation obligations or mitigation measures. Based upon the most current information derived from the most recent sited investigation efforts, it is not anticipated that any substantive active remediation efforts will be required for the site. It is likely that continued well monitoring shall be required on the site until such time as an NFA is issued by DOE. At that time it is expected that the Property shall remain subject to certain Restrictive Covenants that will remain attached to the Property after the issuance of the NFA; the restrictive covenants will not interfere with the continued commercial use of the property consistent with the commercial development accomplished during the Lease Term. At all times during the Term of the Lease partner shall maintain the property and the building structures constructed thereon in a clean and attractive condition. The City shall retain the right of final approval and authorization of the structure and the commercial use constructed on the Lease property during the term of the Lease.

## **5. RFP ADMINISTRATION:**

Upon release of this RFP, all applicant communications should be directed in writing to the RFP Coordinator listed below (email preferred). Any oral communications will be considered unofficial and non-binding on the City.

**A. RFP Coordinator:**

Sue Ownby, CPPO  
Purchasing Manager  
City of Yakima  
129 No. 2<sup>nd</sup> Street  
Yakima, WA 98901  
Ph: 509-576-6695 Email: sue.ownby@yakimawa.gov

**B. Preliminary RFP Schedule:**

	Date
RFP Release.....	Dec 21, 2018
RFP Due Date.....	11:00AM, Jan 25, 2019
Evaluation of Proposals .....	Week of Jan 28, 2019
Contract Award .....	Week of Feb 5, 2019

The City Manager reserves the right to accept or reject any or all proposals.

**6. DUE DATE:**

**One original proposal, with three (3) complete copies and one (1) electronic copy (CD or flashdrive), shall be sealed and must be delivered no later than 11:00AM, January 11, 2019 to:**

**City of Yakima  
Clerks Office  
129 No. 2<sup>nd</sup> St.  
Yakima, WA 98901**

Proposal packages must be marked: **RFP No. 11901P Lease of 1808 No. 1<sup>st</sup> St.**

**7. PROPOSAL SUBMITTAL REQUIREMENTS**

By submitting a proposal, you represent that you have (1) thoroughly examined and become familiar with the scope of services outlined in this RFP and (2) are capable of performing quality work to achieve the City’s objectives.

**Mandatory Proposer Qualifications**

- 1) *Development Concept.* A detailed narrative description and conceptual graphic depictions of the proposed development and use of the lease property (the project). This narrative should include any anticipated or

proposed phasing including the type(s) of uses, proposed square footages and if applicable, any types of commercial tenants that are anticipated to occupy the project (retail/office/ commercial).

- 2) *Financing.* Provide a letter/s and/or other evidence from your lender/s, financial partners, and/or other established financial source(s) attesting to your firm's capacity to complete the proposed project in a timely manner.
- 3) *Relevant Portfolio.* A comprehensive portfolio of projects the proponent has completed that are similar to the one proposed. This information should demonstrate the proponent's track record implementing similar projects and provide a brief history and organizational structure of your firm. Identify who will be responsible for servicing the project.
- 4) *Lease to Purchase Terms and Cost Proposal.* **Proponent is required to complete the Lease to Purchase Agreement and fill in the blanks** which describe the financial terms representing the proponent's best offer to the City.
- 5) *Project Timeline*
- 6) *Environmental Remediation.* A statement asserting that the person/firm understands the environmental remediation activities that will continue to occur on the property and the commitment to allow remediation to continue uninterrupted until the City receives a "No Further Action (NFA) letter from the Washington State Department of Ecology.

**Any proposal not meeting the above mandatory qualifications will not receive any further consideration.**

## **8. EVALUATION AND CONTRACT AWARD**

### **A. Preliminary Evaluation**

All Proposals shall be evaluated against the same standards. The Proposals will first be reviewed to determine if they contain the required forms, follow the submittal instructions and meet all mandatory requirements. Failure to meet mandatory requirements will result in the proposal being rejected as non-responsive. In the event that NO Proposer meets specified requirement(s), the Owner reserves the sole and unilateral right to continue the evaluation of the proposals and to 1) select the proposal most closely meets the requirements specified in this RFP, or 2) to not select any proposal.

**B. Proposer Presentations**

Based on the Evaluation Team’s evaluation of the written proposals on the stated criteria, an identification of up to four top scoring proposals may be short-listed. Short-listed Proposers may be required to participate in interviews and to support and clarify their Proposals, if requested to do so by the Evaluation Team. The Evaluation Team will make every reasonable effort to schedule each presentation at a time and location agreeable to the Proposer. Failure of a Proposer to interview on the date scheduled may result in rejection of the Proposer’s Proposal.

**C. Evaluation Criteria**

The proposals will be scored using the following criteria.

	<b><i>ITEM</i></b>	<b><i>POINTS</i></b>
1	Development Concepts	30
2	Project Financing	25
2	Project Team, Experience and Qualifications	20
2	Lease to Purchase Agreement/Cost Proposal	15
3	Project Milestones and Timeline	10
	<b><i>TOTAL</i></b>	<b>100</b>

The cost proposal section shall receive a weighted score, based upon the ratio of the lowest proposal to the highest proposal. The lowest cost Proposal will receive the maximum number of points available for the cost category and other proposals will be scored accordingly.

Results of reference checks will be used to clarify and substantiate information in the written proposals. The reference results shall then be considered when scoring the responses to the general and technical requirements in the RFP.

The points stated above are the maximum amount awarded for each category. The evaluation process is designed to recommend award of this Lease opportunity to the proposal that best meets the overall needs of the Owner, not necessarily the lowest cost Proposal.

**Right to Reject Proposals and Negotiate Contract Terms**

The Owner reserves the right to negotiate the terms of the Lease Agreement with the selected Proposer prior to entering into a Lease. If substantial progress is not made in negotiations with the highest scoring Proposer, the

Owner may choose to cancel the first Intent to Negotiate and commence negotiations with the next highest scoring Proposer.

## 9. OTHER INFORMATION:

**Other Approvals.** Proposer shall be solely responsible for obtaining approvals for any uses or required licenses (rezonings, liquor permits, etc).

### **Protests**

Any protest of this RFP process shall be made in writing, signed by the protestor, and state that the Proposer is submitting a formal protest. The protest shall be filed with the City of Yakima Purchasing Manager at 129 No. 2nd St., Yakima, WA 98901, or by fax: 509-576-6394 or email to: sue.ownby@yakimawa.gov. The protest shall clearly state the specific factual and legal ground(s) for the protest, and a description of the relief or corrective action being requested. Protests based on terms in the RFP shall be filed at least five (5) calendar days before the solicitations due date, and protests based on award or after the award shall be filed no more than five (5) calendar days after Award Announcement (see below for details). The following steps shall be taken in an attempt to resolve the issues of protest with the Proposer:

Step I. Purchasing Manager and Owner Representative selected by Owner shall try to resolve the matter with protestor. All available facts will be considered and the Purchasing Manager shall issue a written decision.

Step II. If unresolved, within three (3) business days after receipt of written decision, the protest may be appealed to the Owner Representative by the Proposer. Owner Representative shall make a good faith effort to resolve the protest through issuance of a written determination within three (3) business days of receiving the appeal.

Step III. If still unresolved within three (3) business days after Owner Representative's receipt of the appeal, the protest may be appealed to the City Manager (or his designee). The City Manager, or his designee, shall present a final written determination to the Protester. The final written determination shall not be appealable.

### Award Announcement

Purchasing shall announce the successful Proposer via Website, e-mail, fax, regular mail, or by any other appropriate means. Once the Intent to Negotiate is released by Purchasing, the protest time frame begins. The timeframe is

not based upon when the Proposer received the information, but rather when the announcement is issued by Purchasing.

#### Award Regardless of Protest

When a written protest against making an award is received, the award shall not be made until the matter is resolved, unless the Owner determines that a prompt award will otherwise be advantageous to the Owner.

If the award is made, regardless of a protest, the award must be documented in the file, explaining the basis for the award. Written notice of the decision to proceed shall be sent to the protester and others who may be concerned.

The Owner retains the right to enter into any Lease Agreement and nothing herein shall be construed to limit that authority in any manner.

#### **Proprietary Information**

Any requested restrictions on the use of data contained within a proposal, must be clearly stated in the proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable Owner procurement regulations and the Washington State Public Records Act (RCW 42.56 et seq.). Proprietary restrictions normally are not accepted. However, when accepted, it is the Proposer's responsibility to defend the determination in the event of an appeal or litigation.

Unless otherwise noted, data contained in a proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the Owner.

#### **Proprietary Confidential Design Information**

Washington State Public Disclosure Act (RCW 42.56 et seq.) requires public agencies in Washington to promptly make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act, or are otherwise privileged. Documents submitted under this Specification shall be considered public records and, with limited exceptions, will be made available for inspection and copying by the public. It is the intent of the Owner to post all RFP responses online and available to the public after the contract is signed.

If the Proposer considers any submittal document to be protected from disclosure under the law, the Proposer shall clearly identify on the page(s) affected such words as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." The Proposer shall also submit an index with its



submittal identifying the affected page number(s) and location(s) of all such identified material. Marking the entire submittal as “confidential” or “proprietary” is not acceptable and is grounds to reject such submittal. In addition, the required electronic copy shall have any perceived confidential materials segregated into a separate electronic file, as the main RFP response may be automatically released upon contract signing without notification.

If a request is made for disclosure of such identified documents or portions thereof, the Owner will determine whether the material is exempt from public disclosure. If, in the Owner opinion, the material is subject to disclosure, the Owner will notify Proposer of the request and impending release and allow the Proposer 10 days to take whatever action it deems necessary to protect its interests. All expense of such action shall be borne solely by the Proposer, including any damages, attorney’s fees or costs awarded by reason of having opposed disclosure and Proposer shall indemnify Owner against same. If the Proposer fails or neglects to take such action within said period, the Owner will release all materials deemed subject to disclosure. Submission of materials in response to this solicitation shall constitute assent by the Proposer to the foregoing procedure and the Proposer shall have no claim against the Owner on account of actions taken pursuant to such procedure.

**10.SAMPLE CONTRACT**

**(Fill in BLANKS and return with RFP response)**  
**LEASE / PURCHASE OPTION AGREEMENT**

**CITY OF YAKIMA TO \_\_\_\_\_**

This lease/purchase option agreement (hereinafter the "Lease"), made and entered into January \_\_\_\_, 2019, by and between the CITY OF YAKIMA, WASHINGTON, a municipal corporation, ( the "City") and \_\_\_\_\_ (""), d/b/a \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, City owns certain real property, identified as Yakima County Accessor Parcel Number 181312-44412, located at 1808 North 1<sup>st</sup> St, Yakima, WA, including several buildings located thereon (collectively referred to herein as the "Property"), available for limited use as more specifically provided by this Lease, and legally described as:

That part of Gordon's Highway Tracts, recorded in Volume "I" of Plats, page 22, and that part of the South 870.00 feet of the West ½ of the Southeast ¼ of the Southeast ¼ of Section 12, Township 13 North, Range 18 East, W.M., bounded as follows:

Beginning at the Northeast corner of Lot 15 of said Plat of Gordon's Highway Tracts, 24 feet West reference bearing, along the Easterly line of said Plat of Gordon's Highway Tracts, also being the Westerly right of way line of North First Street, 170.00 feet to a point which is 5.00 feet South 0° 24' West of the Northeast corner of Lot 12 of said Plat; thence North 89° 40' West, parallel with the Northerly line of said Plat, 155.00 feet; thence North 0° 24' East 170.00 feet to the Easterly extension of the Northeast line of Lot 15 of said Plat; thence South 89°40' East 155.00 feet to the point of beginning.; and

**WHEREAS**, \_\_\_\_\_ desires to lease, occupy, develop, use and ultimately purchase the Property in accordance with the specific terms and conditions set forth in this Lease / Purchase Option Agreement,

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the benefit to be derived by each party, the parties agree as follows:

**1. INTENT OF AGREEMENT:**

The intent of this Lease is to Lease the Property to \_\_\_\_\_ so that \_\_\_\_\_ can develop the property for commercial purposes permitted by the City and by the current zoning requirements, and to purchase the property at such time as the Washington State Department of Ecology (DOE) issues a “No Further Action” (NFA) letter to the City releasing the Property from future environmental remediation obligations or mitigation measures. City and \_\_\_\_\_ agree that it is likely the Property shall remain subject to certain Restrictive Covenants that will remain attached to the Property after the issuance of the NFA and understand the restrictive covenants will not interfere with the continued commercial use of the property consistent with the commercial development \_\_\_\_\_ accomplished thereon during the Lease Term. At all times during the Term of the Lease \_\_\_\_\_ shall maintain the property and the building structures constructed thereon in a clean and attractive condition. The City shall retain the right of final approval and authorization of the structure and the commercial use constructed on the Lease property during the term of the Lease.

**2. DEMISE OF PROPERTY:**

City hereby leases to \_\_\_\_\_ and \_\_\_\_\_ leases from City the Property, together with all rights of ingress, egress, public road access and use of utility connections to the Property.

\_\_\_\_\_ shall clean up, develop and maintain the Property, including the parking area and building(s) constructed thereon, in a neat, professional, attractive condition and appearance suitable for commercial purposes within \_\_\_\_\_ months of taking possession of the Property under the terms of this Lease. \_\_\_\_\_’s failure to commercially develop and maintain the Property as described herein shall constitute a material breach of the Lease, in which event the City, at its option, may terminate the Lease for cause.

**3. TERM – EFFECTIVE DATE:**

The tenancy provided by this Lease shall be for an initial five (5) year Lease Term commencing on January\_\_\_\_, 2019 and ending on December 31, 2023, unless earlier terminated as provided in this Lease. \_\_\_\_\_ shall have the option to extend its tenancy under this Lease for additional five (5) year terms if the City has not received an NFA letter from DOE before the time for a Lease renewal notice opportunity arises as provided herein. \_\_\_\_\_ may renew the Lease by providing written notice to City at least six (6) months prior to the end of the preceding Lease term of \_\_\_\_\_ intent to extend the Lease. The initial five year Lease, together with any extension(s) thereof, shall be the Lease term (the “Term”).

**4. MORTGAGE:**

\_\_\_\_\_ shall not have the right, authority or permission to mortgage the leasehold created by this Lease or any sublease hereunder or assignment hereof, in whole or in part, for the entire Term.

**5. RENT AND PURCHASE OPTION:**

In consideration of the demise of the Property, and the terms and conditions stated herein, \_\_\_\_\_ agrees to pay the City to lease the property as follows:

\_\_\_\_\_ per month, payable on the first day of each month, every month during the full Term, beginning on the first day of the tenancy, pro-rated for the days left in the month tenancy begins if tenancy does not begin on the first day of a month. Five Hundred Dollars (\$500.00) of each monthly payment shall be retained by the City in an interest-bearing account that will be applied to the purchase price of the property at such time the Purchase option is exercised. In the event \_\_\_\_\_ fails to complete the Property purchase after City's receipt of the NFA from Department of Ecology as set forth herein the funds the City retained from the rental payments, together with all accrued interest thereon, shall become the property of the City upon termination of the Lease.

The purchase price agreed upon by the parties to fulfill the Purchase Option provided herein shall be \_\_\_\_\_), the unpaid balance of which shall be paid in full by \_\_\_\_\_ upon exercising the purchase option.

Rent payments shall be made to the City of Yakima at the City Finance Office or at such other place as shall be directed by CITY. In the event \_\_\_\_\_ exercises the option to extend this Lease, monthly payments during the extended Lease term shall likewise be paid on the first day of each month during the extension(s).

**6. DEPOSIT:**

\_\_\_\_\_ shall deposit \_\_\_\_\_ with the City upon the effective date of the Lease. The deposit funds shall be retained by the City during the period of the Lease Term in an interest-bearing account. The deposit shall be retained by the City in the event \_\_\_\_\_ initiates demolition of the buildings and parking lot existing on the Property at the initiation of the Lease but fails to complete development of the parcel prior to terminating the Lease agreement. In the event \_\_\_\_\_ completes commercial development of the Property and fully exercises the purchase

option provided herein the deposit funds, together with interest accrued thereon, shall be applied to the unpaid purchase value of the Property.

**7. TAXES AND LIENS:**

In addition to the monthly rent as it comes due, \_\_\_\_\_ promises and agrees to pay, as the same become due and payable, all governmental fees and taxes, if any, payable by reason of this Lease, the use of the Property, or the construction or ownership of improvements thereto, specifically to include leasehold excise tax. \_\_\_\_\_ shall neither suffer nor permit the attachment of any lien or other encumbrance on the Property. \_\_\_\_\_ agrees to defend, indemnify and hold harmless City from any such fees, taxes or liens that are permitted to accrue against the Property.

**8. USE:**

Neither \_\_\_\_\_ nor any of \_\_\_\_\_'s sub-tenants shall release hazardous substances into the soil or groundwater on the Property. They shall use the Property only for commercial purposes acceptable to and approved by the City as otherwise described in the Lease. \_\_\_\_\_'s use of the Property shall be subject to the following additional limitations:

**A.** Use, together with any development, restorative construction and maintenance performed on the Property by \_\_\_\_\_ or \_\_\_\_\_'s subtenants, shall be compatible with the Property's zoning in effect at the commencement of the Term and shall not include or allow any excavation or disruption of the surface of the Property or in any way alter the Property surface from the condition it is in at the initiation of the Lease Term without the specific approval of CITY, which approval may include consultation with the Department of Ecology. All Department of Ecology sampling wells on the Property shall be protected and preserved from damage during construction and upon completion thereof, during the Lease Term and thereafter as required by DOE. \_\_\_\_\_ shall be responsible for all cost of repair or replacement of said sampling wells for any damage that occurs to them during the Lease Term. The sampling wells shall remain accessible to DOE at all times in a manner sufficient to allow continued sampling as DOE deems necessary and appropriate.

**B.** The Property shall be used only for lawful commercial purposes appropriate for the location and the layout of the Property as approved and permitted by the City, such approval not to be unreasonably withheld or delayed. During the Lease Term the property shall not be permitted to be used for any purposes related to marijuana production, processing or sale.

**C.** During the entire term of the Lease, and until a No Further Action letter is received from the Department of Ecology for the property, the property shall remain subject to continued well monitoring and oversight by the Department of Ecology. That oversight will not prevent development of the property, but shall require that the Lessee allow DOE staff and their contractors access to the site as necessary to continue the monitoring. This monitoring will not prohibit property use and development as approved by the City, as set forth herein. It is not expected that any active exploration or excavation shall be necessary on the property during the course of the DOE monitoring work.

**9. UTILITIES:**

\_\_\_\_\_ shall be responsible for any necessary installation and operational service costs for all utility services used by \_\_\_\_\_ or \_\_\_\_\_'s subtenants, from the exterior edge of the Property to the points of connection or use on the Property, including, but not limited to, power, natural gas, water, sewer, garbage and communication.

**10. PREMISES CONDITION:**

\_\_\_\_\_ accepts the Property AS-IS. Nothing contained in the preceding sentence shall affect \_\_\_\_\_'s right to indemnification from the City as provided in Section 19 hereof.

**11. MAINTENANCE:**

\_\_\_\_\_ agrees, at its sole cost and expense, to keep the Property, including the asphalt lot and any buildings constructed thereon, clean, neat and in good repair and shall provide all necessary building structure and landscaping maintenance services, fertilizing, irrigation, sweeping, cleaning, parking lot cleanup and trash and litter collection, such that the Property remains attractive, safe, clean and well-maintained. \_\_\_\_\_ shall also be responsible for all necessary snow removal and pavement maintenance to keep the property safe and publicly accessible.

**12. SIGNS:**

\_\_\_\_\_ may be permitted to erect commercial signage so long as all necessary permits are acquired and all applicable codes are complied with for the installation and maintenance thereof. Billboard signage shall not be permitted.

**13. IMPROVEMENTS:**

All development, construction, trade fixtures and other improvements existing on the Property or those that may be installed thereon by \_\_\_\_\_ or \_\_\_\_\_'s subtenants during the Lease Term shall be made to conform to applicable land use, zoning and building regulations and codes. \_\_\_\_\_ shall be responsible for procuring all building and operational permits required for work performed upon the Property. All new improvements to the grounds or the building structures that may be provided by \_\_\_\_\_ shall first be presented to the City for consideration and prior approval before being constructed on the Property, which approval shall not be unreasonably withheld. Approval of any such additional improvements or modifications shall be deemed granted forty-five (45) days after submitting the proposal in writing to City if no specific response has been provided by City to \_\_\_\_\_ within that time. City shall not impose a condition upon the approval of such improvements or modifications thereto that violate any applicable law, or which would violate any insurance policy required to be maintained by \_\_\_\_\_.

**14. REVERSION OF IMPROVEMENTS AND FIXTURES UPON EXPIRATION OR TERMINATION OF LEASE:**

Upon expiration or termination of this Lease for any reason, unless otherwise agreed to in writing between City and \_\_\_\_\_, all improvements to the Property shall revert to the City without requirement of payment of any type by City to \_\_\_\_\_.

Upon termination or expiration of this Lease, \_\_\_\_\_ shall remove all its trade fixtures and repair any damage to the Property caused by removal of said trade fixtures to the reasonable satisfaction of the City Manager. Fixtures not removed on or before the effective date of termination or expiration shall become the property of the City unless other arrangements have been previously approved in writing by the City Manager.

\_\_\_\_\_ shall, as additional consideration for grant of this Lease, insure that all liens, security interest and other encumbrances against said improvements and structures, except those created or suffered by City, whether consensual or involuntary, shall be paid, discharged or satisfied prior to time for reversion thereof to City; and, in any event, the parties acknowledge that City shall not, by virtue of termination of the leasehold interest nor reversion of the structures or other improvements, be liable for any debt or encumbrance associated therewith, whether now existing or hereafter incurred, levied or attached.

**15. REGULATIONS:**

\_\_\_\_\_ agrees to comply with all applicable laws, ordinances, rules, regulations and policies of all governmental authorities having jurisdiction over the Property, including policies adopted by City, as such laws, ordinances, rules, regulations and policies apply to the demolition, development, use and operation of the Property.

**16. SUBLETTING:**

Subject to the agreement to perform and the performance of the terms hereof by \_\_\_\_\_ subtenant, City's written consent is required for any sublease of the Property by \_\_\_\_\_. City agrees that in accordance with the terms of City's prior written approval and consent set forth in this Lease \_\_\_\_\_ may be authorized to enter into space leases and subtenant rental agreements within the Property for individual facility operations. No sublease shall relieve \_\_\_\_\_ or any subtenants thereof of the obligation to perform this Lease in accordance with the terms herein.

**17. ASSIGNMENT:**

\_\_\_\_\_ shall not assign its interest in this Lease to another party without the express written consent of the City. City may withhold consent to \_\_\_\_\_'s request for an assignment in City's sole discretion. If approved by City in writing, any assignee of this Lease and/or \_\_\_\_\_'s rights hereunder shall assume all of \_\_\_\_\_'s obligations under this Lease. However, said assignment shall not relieve \_\_\_\_\_ of its obligation to perform this Lease in every respect. Such assignment shall be in conformance with all City, local, state and federal laws, ordinances, rules, regulations and policies and the assignee shall comply with all laws, ordinances, rules, regulations and policies applicable to the use and operation of the Property, facilities and operations as those laws, ordinances, rules, regulations and policies now exist or may hereafter become effective. City's consent to assignment shall not be construed to be consent to any subsequent assignment.

**18. MISCELLANEOUS PROVISIONS:**

**A.** City may further develop or improve adjacent City property, infrastructure and facilities regardless of the desire or views of \_\_\_\_\_ with respect to any such development or improvement, and without interference or hindrance on the part of \_\_\_\_\_ and without liability to.

**B.** \_\_\_\_\_ shall be responsible for weed control on the Property, including but not limited (where appropriate) to: mowing; spraying; removal of noxious weeds, etc.



C. \_\_\_\_\_ shall post unused portions of the Property against trespass by unauthorized individuals and shall prevent illegal dumping of debris on the property.

**19. INDEMNITY/DUTY TO DEFEND:**

A. Except as provided in Paragraph 19(E), \_\_\_\_\_ shall defend, indemnify and hold harmless City and its elected and appointed officials, employees and agents, from any and all losses directly suffered by City and from any and all liability, damages, suits, claims, actions, judgments or decrees, including attorney fees and costs, made against the City or its elected and appointed officials, employees and agents based on the use or occupancy of the Property during the Term or from default by \_\_\_\_\_ or any assignee or subtenant hereunder, in any term or condition of this Lease.

B. Except as provided in Paragraph 19(E), City shall defend, indemnify and hold harmless \_\_\_\_\_ from any and all losses directly suffered by \_\_\_\_\_ and from any and all liability, damages, suits, claims, actions, judgments or decrees, including attorney fees and costs, made against \_\_\_\_\_ based on the use or occupancy of the Property for any time other than during the Term or as a result of City's default in any term or condition of this Lease, excepting any liability, damage, suit, or claim arising from the occupancy or use of the Property by \_\_\_\_\_ or as a result of \_\_\_\_\_'s operations on the Property or from any other act or omission of \_\_\_\_\_, its servants, employees, agents, invitees, independent contractors, assignees, subtenants or any other entity, person, firm or corporation acting on behalf of \_\_\_\_\_ or under its direction, whether such claim shall be by \_\_\_\_\_ or a third party; provided, however, that \_\_\_\_\_ shall not be liable for any injury, damage or loss occasioned solely by the sole negligence of City, its agents or employees. City shall give \_\_\_\_\_ prompt and reasonable notice of any such claims or actions and \_\_\_\_\_ shall have the right to investigate, compromise and defend the same to the extent of its interest.

C. City shall defend, indemnify, and hold harmless \_\_\_\_\_ from any and all claims and actions, loss, damage, expense or cost, resulting from, arising out of, or caused by City and which leads to any liability under the Federal Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.; Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; the Clean Water Act, 42 U.S.C. 1251 et seq.; the Washington Environmental Policy Act, RCW Ch. 43.21C; the Washington Water Pollution Control Act, RCW Ch. 90.48; the Washington Hazardous Waste Management Act, RCW Ch. 70.105; the Washington Model Toxic Control Act, RCW Ch. 70.105D, and the regulations promulgated thereunder, or under any applicable local or state

environmental ordinance, statute, law, rule or regulation, for all claims, actions, loss, damage, expense or cost associated with environmental conditions that pre-existed the initiation of this Lease and that arise during the Term. The City shall not be liable for or indemnify \_\_\_\_\_ for any claims of environmental liability that may arise after \_\_\_\_\_ exercises the Purchase Option provided herein. PROVIDED, that during the Lease Term the City shall have a continuing right of entry upon the Property, upon providing \_\_\_\_\_ with a one (1) week notice of said entry (excepting emergency occurrences where no notice is necessary and excepting occurrences for which one weeks' notice is impractical, wherein the City will provide notice as the occurrence allows) to conduct necessary tests and actions required for compliance with the Washington State Department of Ecology (Ecology) with respect to the continuing environmental investigation and mitigation of hazardous substances on the Property. City reserves the right to take whatever actions are required by Ecology to resolve the environmental conditions on the Property, even if the actions taken result in a temporary or permanent effect upon \_\_\_\_\_'s use of the Lease Property. City and \_\_\_\_\_ agree that any resultant diminishment of the Lease Property shall be addressed in a negotiation of the Lease terms and conditions, up to and including termination of the Lease. The provisions of this Paragraph 19(C) shall survive the termination of this Lease.

**D.** \_\_\_\_\_ shall defend, indemnify, and hold harmless City, its elected and appointed officials, agents and employees, free and harmless from any and all claims and actions, loss, damage, expense or cost, resulting from, arising out of, or caused by \_\_\_\_\_, its assignees and/or subtenants, or arising after \_\_\_\_\_ exercises the Purchase Option provided in this Agreement and that result in any liability under the Federal Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.; Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; the Clean Water Act, 42 U.S.C. 1251 et seq.; the Washington Environmental Policy Act, RCW Ch. 43.21C; the Washington Water Pollution Control Act, RCW Ch. 90.48; the Washington Hazardous Waste Management Act, RCW Ch. 70.105; the Washington Model Toxic Control Act, RCW Ch. 70.105D, and the regulations promulgated thereunder, or under any applicable local or state environmental ordinance, statute, law, rule or regulation. The provisions of this Paragraph 19(D) shall survive the termination of this Lease.

**E.** The defense, indemnity, and hold harmless provisions provided in Paragraphs 19(A) through 19(D) hereof shall apply only to the extent the party claiming same is not at fault with respect to the event giving rise thereto. If both parties are at fault, such defense, indemnity, and hold harmless shall be applied under principles of comparative fault.

**20. INSURANCE:**

\_\_\_\_\_ agrees that, at all times during the full Lease Term, it shall, at its own expense, maintain in full force and effect adequate fire and other casualty coverage for the Property and structures, buildings, infrastructure and contents, including all \_\_\_\_\_'s personal property, fixtures and improvements. Such policy shall include a replacement cost endorsement. \_\_\_\_\_ shall obtain and file with the City's Risk Manager a Certificate of Insurance evidencing such coverage. \_\_\_\_\_ shall provide the City with a thirty (30) day cancellation notice prior to any policy cancellation. Adequacy of coverage is defined as insurance sufficient to restore the Property to its pre-casualty condition.

Prior to execution of this Lease, \_\_\_\_\_, at its expense, shall obtain and file with the City's Risk Manager a Certificate of Insurance evidencing commercial general liability insurance coverage ("CGL") providing coverage of at least \$2,000,000 per occurrence and \$2,000,000 general aggregate. This Certificate of Insurance shall be subject to approval by the City's Risk Manager as to company, terms and coverage and said approval shall not be unreasonably withheld. The CGL shall name the City, its elected officials, officers, agents, employees, and volunteers as additional named insureds and must protect the City from any and all claims and risks and losses in connection with \_\_\_\_\_'s activities or omissions by virtue of this Lease. The CGL policy shall remain in full force and effect at \_\_\_\_\_'s sole expense for liability for property damage or personal injury that may occur in connection with activities or omissions by \_\_\_\_\_, and provide continuous coverage for the full Term of this Lease and the Agreement. \_\_\_\_\_ shall ensure that the City's Risk Manager is given thirty (30) calendar days prior written notice, by certified mail, of any cancellation, lapse, reduction or modification of such insurance.

**21. DEFAULT; TERMINATION; AND FORFEITURE:**

**A.** \_\_\_\_\_'s failure to comply with any material term, provision or condition of this Lease shall constitute grounds for termination of this Lease. This Lease and tenancy shall terminate for cause as specified above on written notice by City to \_\_\_\_\_ stating in detail the manner in which \_\_\_\_\_ fails or has failed to comply with this Lease. \_\_\_\_\_ shall comply with this Lease in the manner specified in the notice within sixty (60) days (except twenty days with respect to default regarding payment of rent or other monetary obligation) from \_\_\_\_\_'s receipt of such notice, provided, however, that if the nature of \_\_\_\_\_'s default (other than for monetary defaults) is such that more than sixty (60) days are reasonably required for its cure, then \_\_\_\_\_ shall not be deemed to be in default if \_\_\_\_\_ commences such cure within said sixty (60) day period and thereafter diligently prosecutes

such cure to completion; otherwise this Lease and tenancy shall be terminated. Such notice shall be given in writing and served on \_\_\_\_\_ by personal delivery or mailed by certified mail with return receipt requested addressed to \_\_\_\_\_ at its address stated below or such other address as the parties may hereafter advise each other in writing. Notices shall be deemed received three (3) days after mailing. In addition to the provisions hereinabove, and/or as an alternative or cumulative remedy, City may, at its sole election, pursue any other action, redress, or remedy now or hereafter available to City under the laws of the State of Washington, including state Landlord-Tenant laws.

**B.** As respects land, land improvements and the buildings and structures thereon, as additional and not alternative remedy, optional with City and upon sixty (60) days written notice to \_\_\_\_\_, should \_\_\_\_\_ be in default hereunder, City may cure or correct the same and the cost of such action by City shall immediately become due and payable to the City by \_\_\_\_\_, together with late fees on said sum at a rate of ten percent (10%) per annum, and the non-payment of said sum by \_\_\_\_\_ shall be adequate grounds for City to invoke the other remedies as provided in this Lease.

**C.** The failure by City to comply with any material term, provision or condition of this Lease shall constitute grounds for termination of this Lease. This Lease and tenancy shall terminate for cause as specified above on written notice by \_\_\_\_\_ to City stating in detail the manner in which City fails or has failed to comply with this Lease. City shall comply with this Lease in the manner specified in the notice within sixty (60) days from City's receipt of such notice, provided, however, that if the nature of City's default is such that more than sixty (60) days are reasonably required for its cure, then City shall not be deemed to be in default if City commences such cure within said sixty (60) day period and thereafter diligently prosecutes such cure to completion, otherwise this Lease and tenancy shall be terminated. Such notice shall be given in writing and served on City by personal delivery or mailed by certified mail with return receipt requested addressed to City at its address stated below or such other address as the parties may advise each other in writing. Notices shall be deemed received three (3) days after mailing. In addition to the provisions hereinabove, and/or as an alternative or cumulate remedy, \_\_\_\_\_ may, at its sole election, pursue any other action, redress, or remedy now or hereafter available to it under the laws of the State of Washington, including state Landlord-Tenant laws.

**22. DISPUTE RESOLUTION:**

In the event that any dispute shall arise as to the interpretation of this Lease, or in the event of a notice of default as to whether such default does constitute a breach of the Lease terms, and if the parties hereto

cannot mutually settle such differences, then the parties shall first pursue mediation as a means to resolve the dispute. If both parties consent in writing, other available means of dispute resolution may be implemented.

**23. VENUE, ATTORNEY FEES:**

In the event dispute resolution is not successful and litigation is initiated to enforce the rights and obligations hereunder, venue shall lie in a court of competent jurisdiction in Yakima County, Washington. The prevailing party shall be entitled to its reasonable attorney fees in addition to court costs.

**24. NON-DISCRIMINATION CLAUSE:**

To the extent required by law, \_\_\_\_\_, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

**A.** No person, on the grounds of race, color, religion, sex, age, marital status, handicap or national origin, shall be unreasonably excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in \_\_\_\_\_'s personnel policies and practices or in the use or operation of \_\_\_\_\_'s services or facilities.

**B.** \_\_\_\_\_ agrees that in the construction of any improvements on, over or under City land and the furnishing of services thereon, no person, on the grounds of race, color, religion, sex, marital status, handicap, age or national origin, shall be unreasonably excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

**26. OPTION TO PURCHASE:**

As a further condition of the Lease, and in consideration of the terms and conditions set forth herein, including but not limited to the requirement to maintain the property in a good condition and consistent with the value added by the improvements \_\_\_\_\_ makes to the property, that at such time as the City receives a No Further Action (NFA) letter from the Department of Ecology regarding the environmental remediation work that has been occurring on the property for several years, the City shall forward a copy of the NFA letter to \_\_\_\_\_. Within forty five (45) days from receipt of said letter \_\_\_\_\_ shall present the City with an offer to purchase the property (PSA) for \_\_\_\_\_ less credit for the \_\_\_\_\_ of each monthly rent payment that has been applied to partial payments of said purchase price, and less the Deposit amount of \_\_\_\_\_ plus accrued interest that the City has held during

the Term. The PSA shall contain the following language regarding the obligation to comply with the conditions mandated by DOE under the Consent Decree that concerns this property:

*Seller warrants and represents that the property is subject to an Environmental Covenant granted to the Washington State Department of Ecology by the City of Yakima on the 11<sup>th</sup> day of December, 2015 and recorded with the Yakima County Auditor. The parties specifically understand and agree that all uses and activities occurring on the property must comply with the terms of the referenced Covenant.*

Initial: \_\_\_\_\_ (City)

Initial: \_\_\_\_\_ (\_\_\_\_\_)

**27. CONTRACT DOCUMENTS:**

**Exhibit A (to be attached to final agreement) will contain the Proposer's Response, project concept, plans, renderings and other relevant documentation.**

**28. INTEGRATION:**

Exhibits and Recitals are incorporated herein by this reference. This Lease and the Agreement incorporated herein embody the entire agreement between the parties with respect to the subject matter herein contained. No amendments or modifications hereof shall be enforceable unless in writing, signed by the party to be charged.

**29. THIRD PARTY BENEFICIARY:**

Nothing in this Agreement is intended to create any rights in any entity not a party to this Agreement nor is any person or entity not named a party herein a third party beneficiary to this Agreement.

**30. NOTICE:**

All notices allowed or required hereunder shall be effective if given in writing and served by personal delivery or delivered by certified mail, return receipt requested, at the address shown below unless a different address is designated by a party in writing:

If to City: **YAKIMA CITY MANAGER**  
129 N. 2<sup>nd</sup> Street  
Yakima, Washington 98901

If to \_\_\_\_\_: \_\_\_\_\_

\_\_\_\_\_

31. **BINDING EFFECT AND BENEFIT:**

This Lease shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns and subtenants.

32. **AMENDMENTS:**

Any Amendment to the Lease shall be made in writing and signed by both parties to the Lease.

33. **SEVERABILITY:**

If any term or provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforceable and effective to the fullest extent permitted by law. Further, the parties shall negotiate in good faith regarding amendments to this Agreement that would effectuate the intent of any provision held invalid or not enforceable.

**CITY:**

**CITY OF YAKIMA, WASHINGTON**

By: \_\_\_\_\_  
Cliff Moore, City Manager

\_\_\_\_\_  
Date

STATE OF WASHINGTON        )  
  ) ss  
County of Yakima            )

I certify that I know or have satisfactory evidence that Cliff Moore signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the City Manager of the City of Yakima, Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date: \_\_\_\_\_  
By: \_\_\_\_\_

Notary Public  
Appointment Expires \_\_\_\_\_

\_\_\_\_\_:

\_\_\_\_\_ L

By: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

By: \_\_\_\_\_

\_\_\_\_\_  
Date

STATE OF WASHINGTON        )  
  ) ss  
County of Yakima            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ and \_\_\_\_\_ signed this instrument, on oath stated that he/they were authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date \_\_\_\_\_

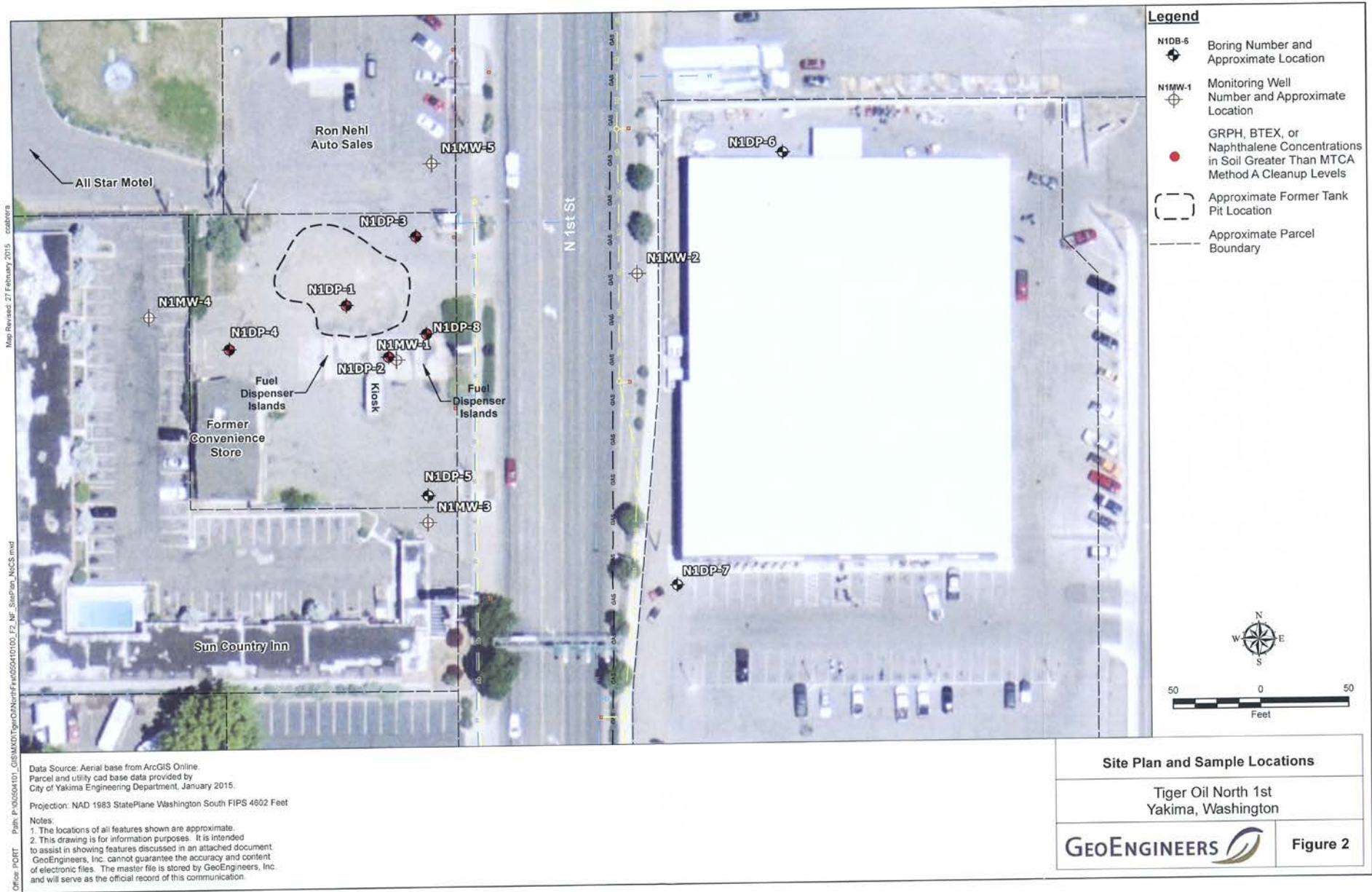
By: \_\_\_\_\_

Notary Public  
Appointment Expires \_\_\_\_\_



## EXHIBIT A

**Respondents RFP response will be attached, as well as project concept, plans, renderings and other relevant documentation.**



Map Revised: 27 February 2015 cca/bora  
 Path: P:\00504101\_GIS\MXD\TigerOilNorth\Fred050410101\_F2\_NF\_SitePlan\_MCCS.mxd  
 Office: PORT

Data Source: Aerial base from ArcGIS Online.  
 Parcel and utility cad base data provided by  
 City of Yakima Engineering Department, January 2015.  
 Projection: NAD 1983 StatePlane Washington South FIPS 4602 Feet  
 Notes:  
 1. The locations of all features shown are approximate.  
 2. This drawing is for information purposes. It is intended  
 to assist in showing features discussed in an attached document.  
 GeoEngineers, Inc. cannot guarantee the accuracy and content  
 of electronic files. The master file is stored by GeoEngineers, Inc.  
 and will serve as the official record of this communication.