

**WHATCOM COUNTY
ADMINISTRATIVE SERVICES**
Whatcom County Courthouse
311 Grand Ave, Suite 108
Bellingham, WA 98225-4083



FACILITIES MANAGEMENT
3720 Williamson Way
Bellingham, WA 98226-9156
Phone: (360) 778-5360
Fax: (360) 778-5361
Facilities@co.whatcom.wa.us

ROB NEY
Project & Operations Manager

MEMORANDUM

TO: Satpal Singh Sidhu, County Executive
FROM: Rob Ney, Project & Operations Manager
DATE: December 21, 2022
RE: Lease of 104 Unity Street Suite for Health

▪ **Background & Purpose**

As discussed with Council on October 25th, Whatcom County is seeking additional office space for our expanding staff. Specifically, there is an immediate need for additional space for our Community and Organizational Development Division of the Health Department.

104 Unity Street, is just three blocks from the Courthouse, and four blocks from the Girard Street Health location. The suite is mostly turn key, and will only require installation of data cables to serve the suite. The suite is connected to a fiber optic line from the County's current fiber vendor.

The suite is comprised of 9 double occupancy offices, a bull pen area with built in cubical work spaces, a lunchroom and two restrooms.

Council authorized the County Executive to execute a lease with the terms outlined in the attached LOI. The proposed lease is a five-year lease with an option for a three-year renewal. Listed costs are for the 2023-2024 biennium; cost must be re-appropriated for future years. A small prorated portion of December 2022 is also included in these costs.

▪ **Funding Amount and Source**

Funding amount needed for the lease is \$393,024; approximately \$88,512 (y1 & y2) and an additional \$216,000 for utilities, custodial fees, tenant improvement costs and other expenses for the two-year period. This project is funded out of the Health Department budget, WA State Department of Health – Foundational Public Health Services Award; Cost Centers #610525. These funds are to build the public health system's capacity and increase the availability of Foundational Public Health Services statewide.

▪ **Details of Lease**

The proposed lease is a hybrid of lease types. Year 1 and 2 are a "Gross Lease", which means that the lease is an "All-In" type of lease (with the exception of utilities paid by the tenant or lessee). Year 3, 4 and 5 are Triple Net (NNN), which is a more standard or typical type of lease which includes a pro-rata share of property taxes, common area expenses, etc. Utilities are also paid by lessee.

The Y1 and Y2 lease amounts are very favorable for the County as an incentive to for the County to occupy as soon as possible. Years 3-5 are still at or below market costs in the Civic Center core.

Please contact Rob Ney at extension x5365, if you have any questions or concerns regarding the terms of this agreement.

Enclosures

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
202212024

Originating Department:	Administrative Services
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Facilities Management 505020
Contract or Grant Administrator:	Rob Ney
Contractor's / Agency Name:	Unity-Flora Development, LLC

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: 12/06/22 (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded? Yes No If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Yes No If yes, RFP and Bid number(s): _____ Contract Cost Center: 610525

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

- Professional services agreement for certified/licensed professional. Goods and services provided due to an emergency
- Contract work is for less than \$100,000. Contract for Commercial off the shelf items (COTS).
- Contract work is for less than 120 days. Work related subcontract less than \$25,000.
- Interlocal Agreement (between Governments). Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):
 \$ 213,780 (\$3,563 x 60mo) + CPI & Triple net y3-y5
 This Amendment Amount:
 \$ _____
 Total Amended Amount:
 \$ 213,780

Council approval required for; all property leases, contracts or bid awards **exceeding \$40,000**, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, **except when:**

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance.
5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope:

This contract is for a lease between Whatcom County and Unity-Flora Development LLC for the purpose of leasing 104 Unity Street, Bellingham WA 98225 for Health Department offices. Lease shall expire 12/31/2027.

Term of Contract: _____ Expiration Date: 12/31/2027

- | | | |
|-------------------|---|-------------------------|
| Contract Routing: | 1. Prepared by: <u>Dee Ebergson</u> | Date: <u>12/21/22</u> |
| | 2. Attorney signoff: <u>approved / BW email</u> | Date: <u>12.14.22</u> |
| | 3. AS Finance reviewed: <u>M Caldwell</u> | Date: <u>12/21/22</u> |
| | 4. IT reviewed (if IT related): _____ | Date: _____ |
| | 5. Contractor signed: _____ | Date: _____ |
| | 6. Submitted to Exec.: _____ > | Date: <u>12/21/22</u> |
| | 7. Council approved (if necessary): <u>AB2022-711</u> | Date: <u>12/06/22</u> |
| | 8. Executive signed: _____ | Date: <u>12/22/2022</u> |
| | 9. Original to Council: _____ | Date: _____ |

Whatcom County Contract No.
202212024

COMMERCIAL LEASE

This COMMERCIAL LEASE (the "Lease") is made and entered into this ____ day of 12/22/2022, 2022, by and between Unity-Flora Development LLC, a Washington Limited Liability Company ("Lessor"), and Whatcom County ("Lessee"), on the terms and conditions set forth below.

1. **Premises.** Lessor is the owners of, and holds fee simple title to, the Premises described herein. Lessor leases to Lessee, and Lessee leases from Lessor, subject to the terms set forth hereinafter, the premises being a 2,832 square foot office in a 19,866 square foot building commonly known as 104 Unity Street, Bellingham, WA 98225 (the "Premises"). The building is situated on the following legal description:

Lots 12 and 13, Block 4, Cornwall Avenue Subdivision, a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 6 of Plats, page 45, in the Auditor's Office of said county and state.

Situate in Whatcom County, Washington.

Parcel No. 380330 238233 0000 / PID# 75272

2. **Business Purpose/Permitted Use.** The Premises shall be used for conduct of business of the Lessee related to county government operations. The premises shall be used for no other purpose without the written consent of Lessor; which consent shall not be unreasonably withheld or delayed.

3. **Term.** The term of this Lease shall be for Five (5) years, commencing on December 27, 2022, and ending December 31, 2027, inclusive.

4. **Extended Term.** Lessee shall have an option to extend the term of this Lease for an additional three (3) year period. The extension will commence on the day after the last day of the initial term, January 1, 2027, through December 31, 2030.

4.1 **Exercise of Extended Term.** To exercise Lessee's Extended Term, Lessee shall deliver written notice to that effect to Lessor, to be received at Lessor's address, as provided below, not later than 120 days prior to the expiration of the initial Lease term. The Lease shall then be extended for three years with a base rent increase determine by reference to the Consumer Price Index (described in ¶ 6 below) + Triple Net. Any changes to the Lease provisions will be by agreement of the parties and memorialized by an amendment to the Lease.

5. **Base Rent / First Month Rent / Security Deposit.** Lessee covenants and agrees to

pay to Lessor as Base Rent for the Premises, on or before the 1st day of each month of the first year of the initial Lease term, prorated for any partial month, a monthly rental payment of \$3,563.00 per month ("Base Rent"). Lessor and Lessee agree that a security deposit will not be necessary. Monthly rent payments may be mailed by Lessee to Lessor to the address set forth in ¶ 38. In the alternative Lessor and Lessee may make arrangements for Base Rent to be deposited to the Lessor's designated Bank Account for Rental income.

6. **Base Rent Annual Increase.** During the second year of the Lease there will be no increase. In years three (3) through five (5) the monthly rent shall be increased on the first day of the Lease term in accordance with the increase in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers (CPI-U): U.S. Cities Average, all items index (Reference Base 1982-84 equal 100) (the "Index") + Triple Net. If the components of the index are materially changed after the Commencement Date (beginning of year three), or the Extended Term, Lessor shall notify Lessee of a substitute index to make subsequent adjustments in base monthly rent. In no event shall base monthly rent for the Extended Term be decreased pursuant to this paragraph.

7. **Delinquency Penalty.** If any sums payable by the Lessee are not received within five (5) business days after they are due date, Lessee agrees to pay a penalty equal to the greater of \$100 or 5% of the delinquent amount for the cost of collecting and handling such late payment in addition to the amount due as Additional Rent.

8. **Additional Rent / Utilities / Insurance / Property Taxes.** In addition to the Base Rent, Lessee shall, commencing at year 3 of the Lease, be responsible for its pro-rata share (14%) of all property taxes, utilities (water and sewer only) and maintenance charges, including snow removal and alarm service. In addition, Lessee shall, at the inception of the lease, be directly responsible for all other utilities, such as power / electric, internet, phone, garbage recycling and natural gas, if applicable. Additional rent will be invoiced to the Lessee separately beginning in year 3 of the lease. Lessor and Lessee will cooperate on an appropriate billing schedule to accommodate Lessee processing those invoices. Failure to timely remit payment for these items will be considered a failure to pay rent under the Lease.

9. **Repairs and Alterations.**

9.1 **Lessor's Responsibilities.** Lessor will repair all cosmetic damage coincident with Lessee's work to be done pre-occupancy. Lessor will allow Lessee access prior Commencement Date to resolve logistic issues. Lessor will allow access prior to Commencement Date for access to basement to identify high and low voltage wires serving the open office area fed from below. Access will be granted during the Lease term for repair, installation and maintenance of these improvements as needed.

9.2 **Lessee's Responsibilities.** Lessee shall, at Lessee's own expense, and at all times relevant, take reasonable care of the Premises, and shall keep it clean, sanitary and neat, and shall keep and use the Premises in accordance with applicable laws, ordinances,

rules, regulations and requirements of governmental authorities. Lessee is also responsible for maintenance and repair of all improvements on the Premises including, without limitation, all plumbing, electrical, HVAC unit and systems, and windows.

9.3 **Limitation on Lessor's Liability.** Lessor will not be in default under this Lease or be liable to Lessee or any other person, for direct or consequential damages, or otherwise, for any failure or interruptions to supply of electricity, water, or other utilities.

10. **General Obligations of the Parties.** Irrespective of the responsibility of the parties, reasonable use and wear are excepted from the respective responsibilities of the parties, Lessor shall not be responsible for damage or interruption of use of facilities except those caused by acts or omissions of Lessor or Lessor's employees, agents or invitees and except as may be required of Lessor hereunder in the case of Premises' destruction, casualty or other similar occurrence.

11. **Alterations.** Lessee, at Lessee's expense, shall have the right following Lessor's consent which shall not be unreasonably withheld or delayed, to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time-to-time as Lessee may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials.

All such construction work, if and as required by applicable law, shall be performed by contractors duly licensed as contractors in the State of Washington, and Lessee or its contractor shall obtain all permits necessary for such work. Lessee shall have the right to place and install personal property, trade fixtures, equipment and other similar installations in and upon the Leased Premises, and fasten the same to the Premises. All personal property, equipment, machinery, trade fixtures and temporary installations, installed on the Leased Premises by Lessee after the commencement of the Lease shall remain Lessee's property free and clear of any claims by Lessor subject to the provision of this Lease regarding improvements to the Premises constituting fixtures. Lessee shall have the right to remove the same at any time during the term of this Lease provided that all damage to the Leased Premises caused by such removal shall be repaired by Lessee at Lessee's expense.

12. **Insurance**

12.1 **Hazard Insurance.** The parties hereto agree that the Lessor shall not be responsible to the Lessee for any property loss or damage done to the Lessee's property, whether real, personal, or mixed, occasioned by reason of any fire, storm, or other casualty whatsoever. It shall be the Lessee's responsibility to provide its own protection against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Lessor, Lessee, third party, or act of nature.

12.2 **Liability Insurance.** Lessee shall satisfy insurance obligations by virtue of Lessee's participation in a joint self-insurance program through the Washington Counties Risk Pool (WCRP). The Lessee may secure insurance against loss or damage resulting from

business interruption, rental obligation, and other similar endorsements and coverages, in Lessee's business judgement and discretion.

13. **Release of Liability.** Lessor and Lessee hereby release the other from any and all liability or responsibility to the other or anyone claiming through or under them for any loss or injury sustained by, or damage to the property of, Lessor, Lessee, or any third parties, caused by, and to the extent of actually available insurance coverage for, any insured peril, during the term of this Lease or any extension thereof, even if such harm, loss, or damage shall have been caused by the fault or negligence of the other party or anyone for whom such party may be responsible.

14. **Use.** Lessee shall conduct and carry on in the Premises, the business for which the Premises are leased, and in so doing, shall comply with all laws, ordinances, and other governmental rules or regulations. Lessee agrees that the nature or the conduct of its business shall not be such as to negate any insurance policy of Lessor with respect to the Premises or property, or cause an increase of the premium therefor. All damage or injury to the Premises, its fixtures or the property caused by Lessee, or Lessee's servants, employees, agents, licensees, or visitors shall be repaired, restored or replaced promptly by Lessee at Lessee's sole cost and expense and to the satisfaction of Lessor, through the use of available insurance proceeds and otherwise.

15. **Assignment.** Lessee expressly covenants that Lessee shall not assign, mortgage, or encumber this Lease, or attempt to do so, nor sublet or suffer or permit the Premises or any part thereof to be used by others without the prior written consent of Lessor; which consent shall not be unreasonably withheld or delayed.

16. **Access to Premises.** Lessee shall at all reasonable times upon prior notice, except in the case of an emergency, permit Lessor access to the Premises, and Lessor shall be entitled to have and shall at all times have proper keys to allow such access. Except in the event of emergency, Lessor shall have such access upon reasonable notice and for reasonable purposes, in order to examine the Premises, to show the Premises to prospective purchasers or lessees, and to make necessary repairs. Except in case of Emergency, Lessor may not enter the Premises without being escorted by an employee of Lessee.

Any such repairs or inspections shall be undertaken in a manner such as to minimize disruption of Lessee's use of the Premises. No such work shall constitute an eviction or constructive eviction of Lessee. Nothing contained herein, however, shall be deemed or construed to impose upon Lessor any obligation, responsibility or liability whatsoever in excess of that otherwise set forth herein. Lessor, in their sole discretion and in compliance with applicable laws pertaining to Lessee's business, shall have the right to place and maintain "For Rent" or "For Sale", or similar signs in a conspicuous place on or about the Premises for a period of ninety (90) days prior to the expiration of this Lease or any extension thereof.

17. **Destruction and Other Casualty.** If the Premises shall be partially damaged but not rendered untenable by any cause, the damages shall be repaired by Lessee, and the Base Rent, and other pass through expenses payable by Lessee hereunder shall continue unless

the condition of the Premises are unusable by Lessee at no fault of Lessee; provided, however, that should Lessor reasonably determine that it is impractical to repair or reconstruct the Premises in substantially similar configuration as presently existing, or should Lessor reasonably determine that there is insufficient insurance proceeds reasonably to reconstruct the Premises, then Lessor may elect not to restore or rebuild the Premises. In that event, within sixty (60) days after the occurrence of the damage, Lessor shall give notice to Lessee of such decision, and the Lease shall terminate immediately upon issuance of such notice; provided, however, that Lessee shall have the option to contribute towards and pay any such shortfall in insurance proceeds in order to complete such rebuilding of the Premises, and to continue the Lease and Lessee's business operations upon the Premises.

18. **Termination Due to Unavailability of Funding / End of Term.** In the event that the Lessee's funding for the lease is no longer available the Lessee may, upon sixty (60) days' notice to Lessor, terminate the Lease. In that event, or upon expiration or other termination of the Lease, Lessee shall quit and surrender to Lessor the Premises, "broom-clean", in good order and condition, ordinary wear excepted, and Lessee shall remove all of Lessee's property. Fixtures added by Lessee after the commencement of the Lease, including but not limited to permanent additions, or improvements upon the Premises made by either party, shall become the property of Lessor, and shall remain upon, and be surrendered with the Premises at the expiration of the term; provided, however, that Lessor may require Lessee to remove any such additions or improvements, and, in that event, Lessee shall promptly so comply, at Lessee's expense, restore the Premises to the preexisting condition.

All keys to the Premises or any portion thereof, must be delivered to Lessor at such termination. Any obligation of Lessee not performed by it may be performed by Lessor at Lessee's expense.

The Security Deposit, if any, addressed Section 5 above shall be returned to Lessee after Lessor's inspection of the Premises at the end of the term to address any items that are in need of repair or replacement that are beyond the scope of ordinary wear and tear. Within 30 days of the end of the term, or from the date that the Lessor learn of abandonment of the Premises by Lessee, the Lessor shall give a full and specific statement of the basis for retaining any of the deposit, including unpaid obligations.

19. **Parking.** There shall be three (3) dedicated parking stalls for the Lessee throughout the duration of the Lease. The location of those parking stalls shall be identified and agreed to by the parties outside of this Lease Agreement.

20. **Default and Re-Entry.** If any rents above reserved, or any part thereof, shall be and remain unpaid when the same shall become due, or if Lessee shall violate or default in any of the covenants and agreements herein contained, then Lessor may cancel this Lease upon 10 days prior written notice and opportunity to cure for rent and any other monetary obligations of Lessee hereunder, and 30 days prior written notice and opportunity to cure for all other nonmonetary lease covenants, and re-enter the Premises in compliance with all applicable law.

Notwithstanding such re-entry by Lessor, the liability of Lessee for rent provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee covenants and agrees to make good to Lessor any deficiency arising from a re-entry and re-letting of the Premises at a lesser rental than herein agreed, subject to Lessor exercising prompt due diligence and reasonable mitigation efforts in any such re-entry and re-letting following any such incurred default by Lessee. Lessee shall pay any such deficiency each month as the amount thereof is ascertained by Lessor.

21. **Removal of Property.** In the event of any entry in or taking of possession of the Premises upon default on the part of Lessee, Lessor shall have the right, but not the obligation, to remove personal property from the Premises and dispose of such property in the manner provided by law.

22. **Review by Counsel.** Lessor has been represented by Timothy G. Krell of Timothy G. Krell Real Estate Law PLLC. Lessee is represented by its own legal counsel or is knowingly proceeding without legal counsel. Given that the Parties and their counsel have had adequate opportunity to review this Agreement, and all corresponding documents and agreements, no presumption construing this document in favor of any of the Parties shall arise.

23. **Non-Waiver of Breach.** The failure of Lessor or Lessee to insist upon strict performance of any of the covenants and agreements of this Lease, or to exercise any option herein conferred in any one or more instances shall not be construed to be a waiver or relinquishment by such Party of any such right or any other covenants or agreements, but the same shall be and remain in full force and effect.

24. **Heirs and Successors.** Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this Lease shall be binding upon the heirs, legal representatives, successors and assigns of any or all of the parties hereto.

25. **Holdover.** If Lessee shall, with the written consent of Lessor, hold over after the expiration of the terms of this Lease, such tenancy shall be for an indefinite period of time on a month-to-month tenancy, which tenancy may be terminated as provided by the laws of the State of Washington. During such tenancy, Lessee agrees to pay to Lessor the same rental as set forth herein, unless a different rate has been, or is agreed upon, or has been provided for herein, and to be bound by all of the terms, covenants and conditions as herein specified insofar as applicable.

26. **Eminent Domain.** In the event of any total or substantial governmental condemnation or other taking of title, or the right of possession of the Premises, or any part thereof, which renders Lessee's business operations upon the Premises economically imprudent to continue, Lessor or Lessee may, at their option, terminate this Lease as of the date of such taking, and if Lessee is not in default under any of the provisions of this Lease on said date, any rent prepaid by Lessee shall, to the extent applicable for any period subsequent to the effective date of the termination, be promptly refunded to Lessee. Any compensation due for such taking shall be paid to Lessor and Lessee as their respective interests may appear and be awarded in any such condemnation proceeding.

27. **Transfer by Lessor.** If Lessor shall assign their interest under this Lease or transfer their interest in the Premises, upon assumption of this Lease by the Transferee, Lessor shall be relieved of any obligation accruing hereunder after such assignment or transfer, and such transferee shall thereafter be deemed to be the Lessor thereunder and fully bound by all of the terms hereof.

28. **Subordination.** This Lease is subordinate to all present and future mortgages, deeds of trust, and other voluntary encumbrances affecting the Premises or the property of which said Premises are a part. Lessee agrees to execute, at no expense to Lessor, any instrument which may be deemed necessary or desirable by Lessor to implement the subordination of this Lease to any mortgage, deed of trust or encumbrance. Lessee irrevocably appoints and constitutes Lessor as the true and lawful attorney-in-fact for Lessee at any time in Lessee's name, place and stead, to execute proper subordination agreements for this purpose. So long as Lessee performs Lessee's obligations under this Lease, no such subordination shall affect Lessee's rights under this Lease, Lessee shall not be disturbed in Lessee's use, enjoyment and occupancy of the Premises, and the holders of any such mortgage, trust deed or other encumbrance shall honor and be bound to recognize this Lease.

29. **Integration.** Lessor, Lessee and/or their agents have made no representations or promises with respect to the Premises except as herein expressly set forth herein. Except as set forth herein, and in any contemporaneous writings, all negotiations, agreements and representations of the Parties have merged herein.

30. **Time of the Essence.** Time is of the essence of this Lease.

31. **Indemnification.** Lessor and Lessee, shall each indemnify, defend, protect and hold the other free and harmless from and against any and all liabilities, damages, costs, claims and expenses, including attorney's fees and court costs, for personal injury, bodily injury or death, or property damage arising from any negligent or wrongful act or omission of Lessor, or Lessee, or any of their respective officers, directors, agents, contractors, consultants, licensees, servants, employees, guests, members or visitors, in, upon, around or with respect to the Premises, or arising from any breach of this Lease by either Party hereto. Each Party shall use legal counsel reasonably acceptable to the other party in defense of any action within the defense obligation of the Party required hereunder to provide such defense and indemnification. This provision shall survive expiration or termination of this Lease.

32. **Quiet Enjoyment.** Lessor covenant and warrant that, so long as Lessee pays all rent and performs all of its obligations under this Lease, Lessee's possession of the Premises will not be disturbed by Lessor, or anyone claiming by, thought or under Lessor, or by the holders of any mortgage, trust deed or other encumbrance against the Premises or Lessor's interest therein.

33. **Broker's Fees.** Except for their respective attorneys and Lessor's agent, John

Templeton of Windermere-Whatcom Co., the Parties hereto warrant and represent to each other that they have not engaged any real estate broker, agent, finder or other person who would be entitled to any commission, fees or other compensation for the negotiation, preparation, execution or delivery of this Lease, and each Party shall indemnify, defend and hold harmless the other party hereto for any loss, claim, liability, injury or damage brought against or sustained by said other Party hereto due to any breach of said warranty by such indemnifying Party.

34. **Severability/ForceMajeure/Governing Law.** Any provision of this Lease which shall prove to be invalid, void, illegal or unenforceable shall in no way affect, impair, invalidate or limit any other provision of this Lease. Time periods for either Party's performance hereunder (excluding the payment of rent) by which such performance is prevented or delayed due to acts of God or any other causes beyond the reasonable control of such party, financial inability and negligence excepted, shall be extended for periods of time during which the Party's performance is prevented or delayed. This Lease shall be governed by, construed under and enforced in accordance with the laws of the State of Washington.

35. **Entire Agreement.** This Lease contains all of the understandings between the parties. Each party represents that no promises, representations, or commitments have been made by the other as a basis for this Lease, which have not been reduced to writing herein. No oral promises or representations shall be binding upon either party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Lease executed with all necessary legal formalities by the Lessor.

36. **Facsimile or E-mail Transmission.** Facsimile or scanned e-mail transmission, including utilization of electronic signature software, "DocuSign" for signature on an original document, and the retransmission of any signed facsimile or e-mail transmission, shall be considered the same as delivery of the original. At the request of Lessor or Lessee or counsel for either, the parties will confirm facsimile, e-mail or DocuSign signatures by signing an original document.

The e-mail address for the Lessor is: john.purdie@mountbakertheatre.com
The e-mail address for the Lessee is: Facilities@co.whatcom.wa.us.

37. **Notices.** All notices, consents, approvals and other communications which may be or are required to be given by either Lessor or Lessee under this agreement may be given as authorized above via facsimile or email. Alternatively, notices shall be properly given if made in writing and sent by (a) hand delivery or (b) certified mail, return receipt requested, with all postage and delivery charges paid by the sender and addressed to the Lessor or Lessee, as applicable, as follows, or at any other address as each may request in writing. Notices delivered by hand shall be deemed received on the date of delivery to the addressee and, if mailed, shall be deemed received on the earlier of actual receipt or two days after mailing. The notice of addresses are as follows:

To Lessor: Unity-Flora Development LLC
104 N. Commercial Street
Bellingham, WA 98225

Email: john.purdie@mountbakertheatre.com

To Lessee: Whatcom County Facilities Management
3720 Williamson Way
Bellingham, WA 98225
Email: Facilities@co.whatcom.wa.us

38. **Recording.** Lessee or Lessor may record a memorandum of this Lease within thirty (30) days of its mutual execution.

39. **Counterparts.** This Agreement may be executed in any number of counterparts each of which shall be deemed to constitute an original Agreement, and all of which shall constitute one Agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS LEASE, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

IN WITNESS WHEREOF, the parties have executed this Lease on day first written above.

Lessor:


DocuSigned by:
 12/22/2022

C27642CB529B427
Unity-Flora Development LLC

By: John Purdie

Its: _____

Lessee:

DocuSigned by:
 12/22/2022

513FC4B01FE0423...
Whatcom County Facilities Management

By: Tyler Schroeder

Its: Deputy County Executive

STATE OF WASHINGTON

SS

COUNTY OF WHATCOM

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she/they signed this instrument, on oath stated that he/she/they is/are authorized to execute the instrument and acknowledge it as the Managing Member of Unity-Flora Development LLC, a Washington Limited Liability Company, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____

Notary name printed or typed:
Notary Public in and for the State of Washington
Residing at
My appointment expires:

STATE OF WASHINGTON

SS

COUNTY OF WHATCOM

I certify that I know or have satisfactory evidence that Rob Ney is the person who appeared before me, and said person acknowledged that he/she/they signed this instrument, on oath stated that he/she/they is/are authorized to execute the instrument and acknowledge it as the Project & Operations Manager of Whatcom County Facilities Management, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____

Notary name printed or typed:
Notary Public in and for the State of Washington
Residing at
My appointment expires: