

LEASE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2018, between the CHINN MEI FONG, (hereinafter designated the "**Landlord**"), and the CITY OF BURLINGTON, a Washington municipal corporation (hereinafter designated the "**Tenant**").

The **Landlord** does hereby rent unto the said **Tenant** parking space at that real property and improvements situated at 423 Fairhaven St. in the City of Burlington, Skagit County, State of Washington (hereinafter designated the "**Premises**"), which **Premises** are more particularly described as follows:

- a. SEE LEGAL DESCRIPTION ATTACHED HERETO AND IDENTIFIED AS EXHIBIT "A," INCORPORATED HEREIN.
 - b. **Landlord** hereby rents the entire existing parking lot, consisting of approximately sixty (60) parking spaces at the **Premises** for use by the **Tenant** for the purpose of public parking.
 - c. **Tenant** does not rent, and this Lease creates no right of entry to any building or structure at the **Premises**.
1. Term. **Tenant** agrees to rent from **Landlord** the above-described real property for a twelve month period, commencing the 1st day of July, 2018. At the conclusion of the initial twelve (12) month period, the lease shall become month to month unless otherwise agreed or terminated by the Parties. Termination of this leasehold shall be accomplished in accordance with the terms of this Agreement in order for the termination to be effective.
 2. Rent. The **Tenant** shall pay monthly rent in the amount of One Thousand Five Hundred Dollars (\$1,500), which amount shall be inclusive of taxes described in Section 11, below. Rental payments shall be payable in advance, and due on the 1st day of each month, to:

Chinn Mei Fong
216 North Spruce Street
Burlington, Washington 98233
 3. Utilities. **Landlord** shall pay for all services and utilities supplied in the **Premises**.
 4. Sublet. The **Tenant** agrees not to sublet the **Premises** nor assign this Agreement nor any part thereof without the prior written consent of **Landlord**, which consent shall not be unreasonably withheld.
 5. Use of **Premises**. **Tenant** shall use the **Premises** for public parking and related commercial activities, and for no other use or purpose. **Tenant** may

levy a charge upon parking customers for some or all of the stalls in individual parking areas. **Tenant** shall retain all proceeds from any charge upon parking customers, if any.

6. Improvements. The **Premises** leased to **Tenant** has been used by the **Landlord** for vehicular parking lots for use by the general public. Varying types of improvements may exist, including asphalt surfacing, painted striping, wheel stops or curbing, sign posts, etc. Any additional improvements deemed necessary by **Tenant** shall be constructed at **Tenant's** sole expense and shall be completed in a good and workmanlike manner free of all liens and claims. **Tenant** may erect signs to facilitate public parking. **Tenant** shall have authority to conduct maintenance that is necessary to keep the condition of the **Premises** safe for parking and access by the public. All improvements or maintenance performed by **Tenant** shall become property of **Landlord** upon termination of this Agreement.
7. Alterations. **Landlord** agrees to not make alterations to the **Premises** that unreasonably hinders the **Tenant's** ability to utilize the **Premises** for purposes contemplated pursuant to this Agreement without prior written consent from **Tenant**.
8. **Landlord's** Obligations. **Landlord** shall immediately notify **Tenant** of any changes as to the person or address of the **Landlord**. **Landlord** makes no warranties or guarantees as to the condition of the improvements, or as to the suitability of the improvements for **Tenant's** proposed use.
9. Access. **Landlord** reserves the right of access to the **Premises** for the purpose of inspection, and to conduct tests, inspections, surveys, and studies as the **Landlord** sees fit. Access shall be at reasonable times except in case of emergency or abandonment, and **Landlord** shall provide 48 hours notice to the **Tenant** prior to accessing the **Premises**, except in case of emergency.
10. Surrender of **Premises**. In the event of default in payment of installment of rent, **Tenant** will quit and surrender the said **Premises** to **Landlord**.
11. Taxes. **Landlord** shall be responsible for all real property taxes pursuant to this Agreement.
12. Insurance. **Tenant** is a member of Washington Cities Insurance Authority (WCIA), a liability-property pool. The Parties agree that the City's membership in WCIA constitutes adequate insurance for purposes of this Agreement. **Landlord** agrees to obtain commercial general liability insurance with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, and property insurance covering the full value of **Landlord's** property and improvements with no coinsurance provisions. The Parties shall provide proof of insurance to each other upon reasonable request.

13. Costs and Attorney's Fees. In any action brought to enforce any provision of this Lease, including actions to recover sums due or for the breach of any covenant or condition of this Lease, or for the restitution of the **Premises** to the **Landlord** or eviction of **Tenant** during the term or after expiration thereof, the substantially prevailing Party shall be entitled to recover from the other Party all reasonable costs and reasonable attorney's fees incurred, including, without limitation, the fees of accountants, appraisers, and other professionals, at trial, on appeal, or without resort to suit.
14. Termination. Either Party may terminate this Agreement by giving ninety (90) days advance notice to the other Party. In the event that Landlord sells or transfers ownership of the above-described real property to another party, the required notice period may be less than ninety (90), but no less than fourteen (14) days if so specified under the terms of the sale or transfer of ownership agreement. Notice, including documentation showing the basis for any termination less than ninety (90) days, shall be given by certified mail, return receipt requested, and shall be deemed to be effective on the date deposited into the U.S. mail. In the alternative, notice may be effected by service on the following representative of the Parties:

For the City:

CITY OF BURLINGTON
ATTN: CITY ATTORNEY
833 SOUTH SPRUCE STREET
BURLINGTON, WA 98233

For the Landlord:

CHINN MEI FONG
216 NORTH SPRUCE STREET
BURLINGTON, WA 98233

15. Time of Essence. Time is of the essence of this Lease and of every provision hereof.
16. Quiet Enjoyment. **Tenant**, on performing all the covenants and conditions hereof, shall, at all times during the demised term, peaceably and quietly have, hold, and enjoy the leased **Premises**, provided, however, that no eviction of **Tenant** for any reason whatever, after the **Landlord** shall have conveyed the fee of the leased **Premises**, shall be construed as a breach of this covenant, and no action therefor shall be brought against the **Landlord**.
17. Covenants Real. Every covenant in this Lease shall be deemed and treated to be a covenant real running with the **Premises** during the term hereof, and shall extend to the heirs, legal representatives, successors and assigns of the Parties. No change in the **Landlord's** ownership of the **Premises**, or rights to

the rents payable hereunder, however accomplished, shall operate to enlarge the obligations or reduce the rights of **Tenant**. No change in the **Landlord's** ownership in the **Premises** shall be binding upon **Tenant** for any purpose until **Tenant** shall have been given notice thereof.

18. **Prior Agreements.** This Lease contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Lease, and no prior agreement, letter of intent or understanding pertaining to any such matter will be effective for any purpose. No oral modification of, or amendment to, this Lease shall be effective; however, this Lease may be modified or amended by a written agreement signed by both Parties to this Lease.
19. **Recording.** Neither Party may record this Lease, nor any memorandum thereof, without the prior written consent of the other Party.
20. **Severability.** Any provision of this Lease which proves to be invalid, void, or illegal will in no way affect, impair, or invalidate any other provision hereof, and such other provisions will remain in full force and effect.
21. **Applicable Law and Venue.** This Lease is made pursuant to and shall be construed in accordance with the laws of the State of Washington. **Landlord** and **Tenant** hereby agree that venue of any action relating to this Lease will be in Skagit County, Washington.
22. **Other Documents.** Each Party undertakes to execute such additional or other documents as may be required to fully implement the intent of this Agreement.
23. **Paragraph Headings, Gender, and Number.** Paragraph headings are not to be construed as binding provisions of this Lease; they are for the convenience of the Parties only. The masculine, feminine, singular and plural of any word or words shall be deemed to include and refer to the gender and number appropriate in the context.
24. **Counterparts.** This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
25. **Nonwaiver of Breach.** The failure of the Parties 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 of any such rights, or any other covenants or agreements, but the same shall be and remain in full force and effect.

26. Construction. Nothing contained herein shall create the relationship of principal and agent or of partnership or of joint venture between the Parties hereto, and neither the method of computation of rent nor any other provision contained herein shall be deemed to create any relationship between the Parties hereto other than the relationship of **Landlord** and **Tenant**.

IN WITNESS WHEREOF, the **Tenant** and **Landlord**, or his agent, each hereunto sets his hand

LANDLORD

TENANT/CITY OF BURLINGTON

Chinn Mei Fong

Steve Sexton, Mayor

Attest:

Dr. Renée C. Sinclair, CPFO
Director of Budget & Accounting

Approved as to form:

Leif Johnson, City Attorney

EXHIBIT A – Legal Description

BURLINGTON AC, (DK12) THAT PORTION OF TRACT 85, "PLAT OF THE BURLINGTON ACREAGE PROPERTY", AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING WEST OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID TRACT 85, WHICH IS NORTH 88 DEGREES 55' WEST, 1212.4 FEET AND 30 FEET NORTH OF THE SOUTH 1/4 CORNER OF SECTION 5, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., SAID POINT BEING THE SOUTHWEST CORNER OF THAT TRACT CONVEYED TO JOSEPH PAULI AND ETHEL PAULI, HUSBAND AND WIFE, BY DEED DATED DECEMBER 26, 1958, AND RECORDED DECEMBER 28, 1958, UNDER AUDITOR'S FILE NO. 574035; THENCE NORTH ALONG THE WEST LINE OF THE PAULI TRACT, 629.3 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID TRACT 85 AND THE TERMINAL POINT OF SAID LINE BEING HEREBY DESCRIBED. ALSO TOGETHER WITH THAT PORTION OF THE EAST 264.00 FEET OF THE SOUTH 825.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID EAST 264.00 FEET OF THE SOUTH 825.00 FEET; THENCE SOUTH 0 DEGREES 30' 59" EAST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 FOR A DISTANCE OF 152.35 FEET; THENCE NORTH 18 DEGREES 35' 55" WEST FOR A DISTANCE OF 36.19 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 380.00 FEET, THROUGH A CENTRAL ANGLE OF 18 DEGREES 04' 56" AN ARC DISTANCE OF 119.93 FEET TO A POINT OF TANGENCY; THENCE NORTH 0 DEGREES 30' 59" WEST FOR A DISTANCE OF 0.63, MORE OR LESS, TO THE NORTH LINE OF SAID SOUTH 825.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AT A POINT BEARING NORTH 89 DEGREES 18' 30" WEST FROM THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 18' 30" EAST ALONG SAID NORTH LINE FOR A DISTANCE OF 30.01 FEE, MORE OR LESS, TO THE POINT OF BEGINNING. ALSO TOGETHER WITH CERTAIN UNNAMED DEDICATED ROAD ADJOINING THE WEST LINE OF TRACT 85 " PLAT OF BURLINGTON ACREAGE PROPERTY", AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49 RECORDS OF SKAGIT COUNTY, WASHINGTON, ALL AS DESCRIBED IN SKAGIT COUNTY SUPERIOR COURT CAUSE NO. 81-2-00071-4; EXCEPT THAT PORTION LYING WITH A TRACT OF LAND CONVEYED TO THAD L BINGHAM, ET UX BY DEED RECORDED DECEMBER 10, 1943 AS AUDITOR'S FILE NO. 367953, ALSO EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE ABOVE DESCRIBED TRACT; THENCE SOUTH 89 DEGREES 23' 26" EAST ALONG THE NORTH LINE OF SAID TRACT FOR A DISTANCE OF 4.87 FEET TO THE PROPOSED WESTERLY MARGIN OF SOUTH SPRUCE STREET; THENCE SOUTH 18 DEGREES 35' 55" EAST ALONG SAID PROPOSED WESTERLY MARGIN FOR A DISTANCE OF 31.13 FEET, TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 320.00 FEET, THROUGH A CENTRAL ANGLE OF 18 DEGREES 04' 56" FOR A DISTANCE OF 100.99 FEET TO A POINT OF TANGENCY; THENCE NORTH 87 DEGREES 27' 42" WEST TO THE NORTHEAST CORNER OF THE WEST 16.00 FEET OF THE SOUTH 530.00 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., THENCE NORTH 89 DEGREES 18' 30" WEST ALONG SAID NORTH LINE OF THE OSUTH 530 FEET FOR A DISTANCE OF 16.00 FEET TO THE NORTHWEST CORNER THEREOF AT A POINT BEARING SOUTH 0 DEGREES 30' 59" EAST FROM THE POINT OF BEGINNING; THENCE NORTH 0 DEGREES 30' 59" WEST ALONG THE WEST LINE OF SAID SUBDIVISION, ALSO BEING THE WEST LINE OF THE ABOVE DESCRIBED UNNAMED DEDICATED ROAD RIGHT-OF-WAY FOR A DISTANCE OF 127.91 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.