

RESOLUTION NO. 07-457

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO ENTER INTO A LEASE FOR REAL PROPERTY WITH THE SORCI FAMILY, LLC FOR THE USE OF CITY OFFICE SPACE

WHEREAS, the City has outgrown its current office space; and

WHEREAS, there is a need for temporary office space until such time as permanent facilities can be funded and constructed; and

WHEREAS, the City has determined that it is economically prudent to lease portable office units and place them temporarily on leased unimproved real property; and

WHEREAS, Sorci Family, LLC has offered to lease to the City unimproved property that is zoned for office use; said property being identified as King County Assessor's Parcel Number 1521069093 and legally described in Exhibit A attached hereto; now, therefore

BE IT RESOLVED that the Mayor is authorized to enter into a lease for the above described property in an amount not to exceed \$720 per month, and for a term no longer than one year, with the right to extend the lease for successive 6 month intervals for up to 5 years. The lease may also provide for the right to add additional temporary office space at an increased rental rate based on the same square footage price used to calculate the initial monthly lease fee. The lease shall be on a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the Mayor is authorized to have such improvements made to the Property as are necessary to extend needed utility services to the temporary office location and to secure the site from unauthorized entry.

ADOPTED by the City Council on August 16, 2007 at an open public meeting.


Howard Botts, Mayor

Attest:


Brenda L. Streepy, City Clerk

LEASE FOR UNIMPROVED REAL PROPERTY
Between
CITY OF BLACK DIAMOND AND SORCI FAMILY LLC

1. Date and Parties.

This Lease, for reference purposes only, is dated the 14th day of December, 2007, and is entered into by and between Sorci Family LLC, a Washington Limited Liability Company ("Lessor") and the City of Black Diamond, a municipal corporation of the State of Washington, ("Lessee"):

2. Subject Property.

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor a portion of the real property identified under King County Assessor's number 1521069093, and more fully described on Exhibit "A" attached hereto. The portion being leased is pictorially illustrated in Exhibit B attached hereto. The portion being leased includes the area in and around the two modular buildings that have been placed on the property, the gravel portion of the parcel immediately to the south of the modular buildings, and non-exclusive use for parking in the area to the north of the modular buildings. The parties do not want to incur the expense of a survey, and thus they have attached photographs of the modular buildings located on the parcel, and the surrounding gravel area to the south and the shared parking area to the north. The square footage of the property upon which the modular building are place is 103' x 60', for a total of 6,180 square feet. The graveled parking and the 6,180 feet attributable to the modular buildings shall be referred to herein as the "Subject Property". The modular buildings are place on the Subject Property, but are not considered part of the Subject Property, as they will continue to leased by the Lessee from a third party.

3. Lease Term.

The term of the Lease shall commence on the 14th day of December, 2007 and end on the 31st day of December, 2009. The term may be extended for up to 5 consecutive 2 year terms. Provided, the lease shall automatically terminate at the end of each 2 year term unless, by June 15 of the last year of each term the Lessee gives written notice of its intent to extend the lease term. If the notice is timely given and the Lessee is not in default under any of the Lease provisions, then the Term shall be extended for an additional 2 years, upon the same terms and conditions, except for the adjustment of the lease amount as set forth in Paragraph 5 below.

4. Rent.

Lessee agrees to pay, in advance, the monthly base rent. The initial base rent shall be one thousand five hundred forty five and no/100 U.S. dollars (\$1,545.00) per month. The



Lessor



Lessee

rent for December 2007 shall be prorated and paid with the January 2008 rent, both of which shall be due by January 18, 2008. All subsequent rent shall be due and payable on the 1st day of each month, commencing with February, 2008, and shall be paid without further invoice from Lessor. The rent shall be increased each year to reflect the increase in the Consumer Price Index for urban workers (CPI-U) for the Seattle/Tacoma/ Everett metropolitan area, as prepared by the US Department of Labor, from July to July in the preceding year. As additional rent the Lessee shall pay the leasehold tax and any lawful assessments against the subject property if there is any leasehold tax imposed as a result of the location of the modular buildings upon the property.

5. Utilities.

Lessee agrees to pay for all utilities charges in the event such are charged against the property as a result of the use of two modular buildings. Lessor has provided trash and recycle dumpsters and shall provide such services for Lessee at no additional charge.

6. Indemnification and Liability. Lessee agrees to save harmless and indemnify Lessor against and from all demands, claims, causes of action, or judgments, and all reasonable expenses incurred in investigating or resisting the same for injury to person, loss of life, or damage to property occurring on the leased premises and arising out of Lessee's use and occupancy; and Lessee agrees to carry liability insurance to protect Lessor with insurance limits to be approved by Lessor.

7. Assignment and Subletting. Lessee shall not assign this Lease nor sublet the leased premises without Lessor's written consent. Provided, however, if the Lease is transferred to a legal entity in which the Lessee is the only person with an ownership interest, then no consent shall be required but written notice of the assignment shall be given to the Lessor at the time of assignment.

8. Waivers. One or more waivers of any covenants or conditions by Lessor shall not be construed as a waiver of a subsequent breach of the same covenant or condition or agreement.

9. Use of Premises. Lessee will not make any changes or alterations to the property without Lessor's prior written consent, which consent may be withheld by Lessor in his sole discretion. Lessor consents to the improvements that are pictorially illustrated in Exhibit C attached hereto. Lessee agrees not to violate any law, ordinance, rule, or regulations of any governmental authority having jurisdiction of the leased premises. The Lessee agrees to indemnify and hold the Lessor harmless from any claims relative to the filling and grading that Lessee performed in anticipation of the placement of the modular building. This indemnity includes, but is not limited to, stormwater runoff damage claims and contamination claims incurred in evaluating the Lessee's proposal and the review and/or drafting of documents necessary to effectuate the provisions of this paragraph.



Lessor



Lessee

10. Default. It is agreed that if any rent shall be due and unpaid, or if default is made of any of the covenants and agreements to be performed by Lessee as set forth herein, then the Lessor may, at his option, enter upon said premises and relet the same for such rent and upon such terms as Lessor may see fit; and if the full rental herein shall not be realized by Lessor over and above any expense to Lessor in such reletting, Lessee will pay any deficiency promptly upon demand, or the Lessor may declare this Lease terminated and forfeited and take possession of the said premises, and Lessee agrees to pay a reasonable attorney fee and the costs of any Court action should it be necessary to enforce any of Lessor's remedies in this paragraph contained if Lessor is the prevailing party. Lessor agrees to pay a reasonable attorney fee and the costs of any Court action if Lessee should be the prevailing party.

11. Right of First Refusal. Lessor hereby grants to Lessee, on the terms and conditions herein set forth, the Right of First Refusal to purchase (as that term is hereafter described) the property subject to this lease. In the event that, while this Lease is in effect, the Lessor has received an offer for the purchase of the leased property subject only to this right of First Refusal, then Lessor shall provide Lessee with a fully signed copy of that Offer. If Lessee desires to exercise this Right, then Lessee shall, within ten (10) days after delivery to it of a copy of such Offer, deliver to Lessor a written notice of exercise. Upon such notice of exercise having been delivered, the Sale to Lessee shall close upon all the terms and conditions contained in the offer, except that Lessee shall be substituted for the original purchaser. If the original proposed purchaser has deposited any earnest money, then Lessee must, in order to make his notice of exercise effective, tender to Lessor along with his notice of exercise, the same amount of earnest money in the same form. If the notice to exercise the Right of First Refusal is not timely received, then the right is automatically terminated, and the Lessor may sell the property on the terms and conditions set forth in the Offer. If the transaction is closed, then the lease shall automatically terminate on the date the conveyance document is recorded. For the purpose of this Right of First Refusal, an Offer to purchase shall mean not only an agreement for conveyance of title either immediately at closing, or upon payment in full of a real estate contract, but also any ground lease with an initial term of not less than twenty-five (25) years. Provided, however, nothing in this provision is to be construed as preventing the parties from negotiating in the future with regards to whether or not credit against the purchase price should be given for any or all of the authorized improvements Lessee may make to the Subject Property.

12. Written Notices. All Notices required by this Agreement shall be considered properly delivered (1) when personally delivered, or (2) when transmitted by facsimile showing date and time of transmittal, or (3) on the day following mailing, postage prepaid, certified mail, return receipt requested, or (4) one (1) day after depositing in overnight carrier, e.g. Federal Express to:

Lessor: Sorci Family LLC
c/o Mario Sorci

Lease
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011408



Lessor



Lessee

Anesthesia Equipment Supply Inc.
24301 Roberts Drive
Black Diamond, WA 98010
Facsimile: (800) 568-1679

Lessee: City of Black Diamond
Attention: City Administrator
P.O. Box 599
Black Diamond, WA 98010
Facsimile: (360) 886-2592

Lessee's Representative: Loren D. Combs
VSI Law Group, PLLC
3600 Port of Tacoma Rd., Suite 311
Tacoma, WA 98424
Facsimile: (253) 922-5848

13. Removal of Improvements at End of Lease Term. The Lessee shall remove at its expense the modular units and the associated decks and ramps, at the end of the lease term. The utilities, ballast, gravel, and any other improvements to the Subject Property shall not be removed and shall be deemed part of the Subject Property.

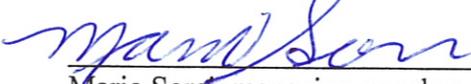
DATED this 15th day of JAN., 2008.

LESSOR:

LESSEE:

SORCI FAMILY LLC

CITY OF BLACK DIAMOND


Mario Sorci, managing member


Howard Botts, Mayor

ATTEST:


Brenda Streepy, City Clerk

Approved as to Form:

Loren D. Combs
City Attorney


Lessor


Lessee



Lessor



Lessee

STATE OF WASHINGTON)
) ss.
County of King)

I certify that I know or have satisfactory evidence that Mario Sorci is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the Manager of Sorci Family LLC. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 11/5/08

Shelly K Fulkerson
NOTARY PUBLIC
Print Name: Shelly K Fulkerson
My appointment expires: 2/13/09



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MS B
Lessor Lessee

PARCEL A:

PARCEL 1 OF CITY OF BLACK DIAMOND SHORT PLAT NUMBER 78-007 RECORDED UNDER RECORDING NUMBER 7811039014, SAID SHORT PLAT BEING A SUBDIVISION OF THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON,

TOGETHER WITH THE NORTH 93 FEET OF THE FOLLOWING DESCRIBED PARCEL:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 15, THENCE SOUTH $00^{\circ} 08' 52''$ EAST, ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 1915.41 FEET;
THENCE SOUTH $89^{\circ} 51' 08''$ WEST, A DISTANCE OF 440.67 FEET, TO THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN AN INSTRUMENT RECORDED UNDER RECORDING NUMBER 1645619 AND THE TRUE POINT OF BEGINNING;
THENCE NORTH $3^{\circ} 30' 28''$ WEST, ALONG THE WEST LINE OF SAID TRACT, A DISTANCE OF 630.39 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF PARCEL 1, AS SHOWN ON A SURVEY OF RECORD BY GARY D. HOLMVIO, L.S. 10151, UNDER RECORDING NUMBER 7808229010, IN VOLUME 14 OF SURVEYS, PAGE 103;
THENCE SOUTH $87^{\circ} 45' 28''$ EAST 178.48 FEET, MORE OR LESS, TO A POINT 60 FEET FROM THE WEST LINE OF A TRACT OF LAND DESCRIBED BY DEED RECORDED UNDER RECORDING NUMBER 7501070376;
THENCE SOUTH $0^{\circ} 08' 52''$ EAST 320 FEET, MORE OR LESS, PARALLEL TO THE WEST LINE OF SAID TRACT TO A POINT 60 FEET FROM THE SOUTHWEST CORNER THEREOF;
THENCE SOUTH $5^{\circ} 45' 43''$ WEST 308 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN AN INSTRUMENT RECORDED UNDER RECORDING NUMBER 1656204;
THENCE NORTH $87^{\circ} 45' 28''$ WEST, ALONG THE SOUTH LINES OF TRACTS OF LAND DESCRIBED IN INSTRUMENTS RECORDED UNDER RECORDING NUMBERS 1656204 AND 1645617, A DISTANCE OF 110.00 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS LOT B, CITY OF BLACK DIAMOND LOT LINE ADJUSTMENT NUMBER 90-02, RECORDED UNDER RECORDING NUMBER 9002280435.)

PARCEL B:

THAT PORTION OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON EAST LINE OF THE SECTION 1,211.3 FEET SOUTH OF NORTHEAST CORNER OF SECTION;
THENCE NORTH 65° 16' 00" WEST 348.84 FEET;
THENCE NORTH 87° 49' 00" WEST, 70.9 FEET TO TRUE POINT OF BEGINNING;
THENCE SOUTH 3° 34' 00" EAST 100 FEET;
THENCE NORTH 87° 49' 00" WEST 60 FEET;
THENCE NORTH 3° 34' 00" WEST 100 FEET;
THENCE SOUTH 67° 49' 00" EAST 60 FEET TO TRUE POINT OF BEGINNING.

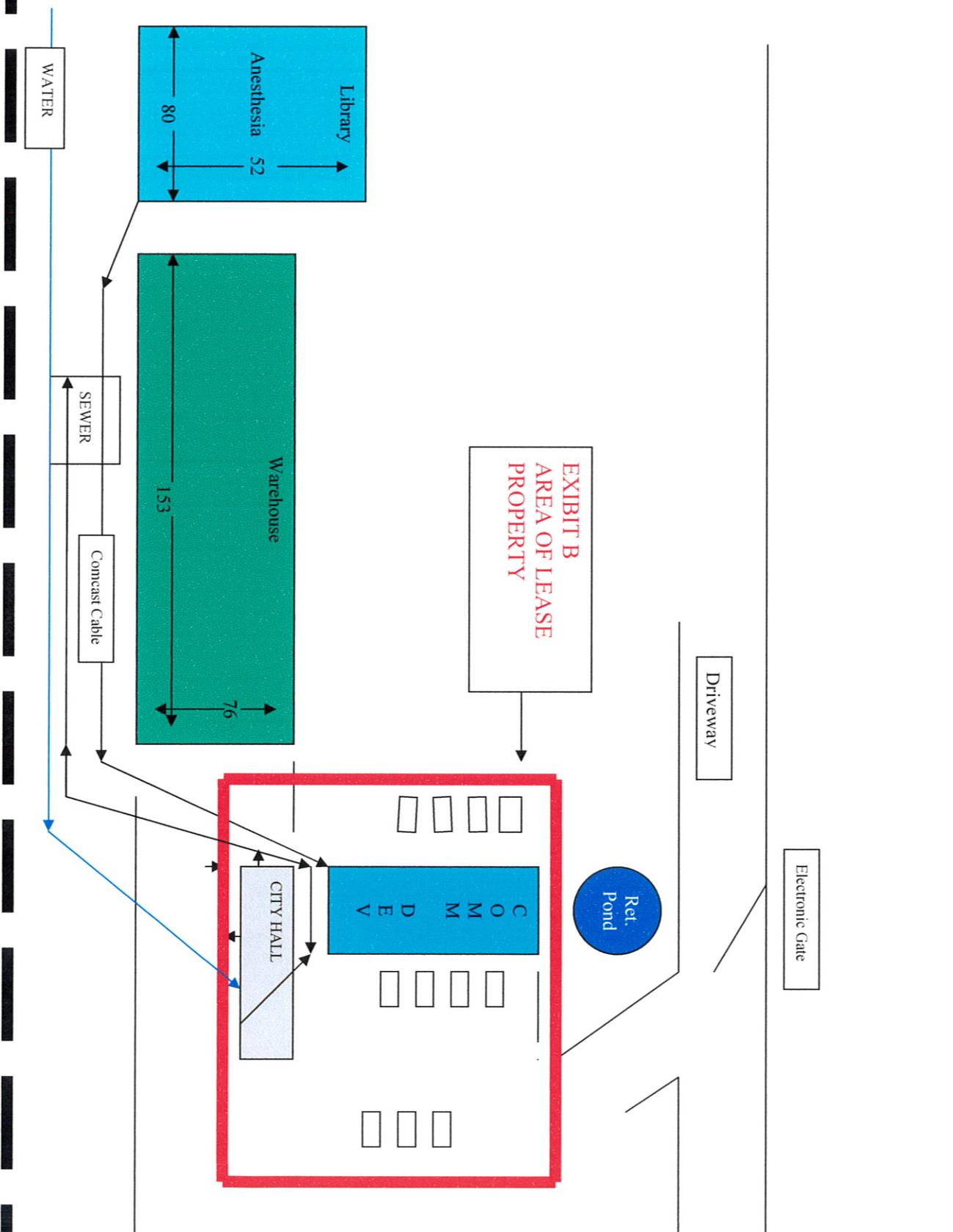


EXHIBIT C



LOOKING EAST TO WEST AT REAR OF BUILDING

EXHIBIT C



LOOKING FROM SW TO NE FROM REAR OF WAREHOUSE

EXHIBIT C



LOOKING FROM SOUTH TO NORTH FROM SW CORNER OF CITY HALL

EXHIBIT C



LOOKING SOUTH TO NORTH FROM REAR OF BLDG.

EXHIBIT C



LOOKING NORTH TO SOUTH FRONT OF BLDG