

RESOLUTION NO. 08-521

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 office space and place city employees temporarily in leased property; and

WHEREAS, Sorci Family, LLC has offered to lease to the City 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 \$2000.00 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 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 June 19, 2008 at an open public meeting.


Howard Botts, Mayor

Attest:


Brenda L. Streepy, City Clerk

After Recording Return to:

Loren D. Combs
VSI Law Group, PLLC
3600 Port of Tacoma Road, Suite 311
Tacoma, WA 98424

LEASE FOR REAL PROPERTY

1. Date and Parties. This Lease, for reference purposes only, is dated the 19th day of June, 2008, 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 and Leased Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor approximately 2,000 square feet of office space (“Leased Premises”) and identified as Unit B in the office building on the real property located at 24301 Roberts Drive, situated in Black Diamond, King County, Washington, identified under King County Assessor’s number 1521069093, hereinafter referred to as the “Subject Property”, and more fully described on Exhibit “A” attached hereto. The Leased Premises are pictorially illustrated on Exhibit B.

3. Lease Term. The term of the Lease shall commence on the 23rd day of June, 2008 and end on the 31st day of May, 2009. The term may be extended for six (6) additional one (1) year terms, not more than three (3) additional five (5) year terms. Provided, the lease shall automatically terminate at the end each one (1) year term unless, by March 15th 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 one (1) year, upon the same terms and conditions, except for the adjustment of the lease amount as set forth in Paragraph 4 below.



Lessor



Lessee

4. Rent. The initial base rent shall be Two Thousand and no/100 U.S. dollars (\$2,000.00) per month. Lessee shall pay to Lessor the base rent monthly, the payment shall be due by the 8th day of each month. 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. In addition to the above referenced increases, the rent shall be adjusted to the fair market rental value at the beginning of each fifth lease extension term. Between the time the notice of intent to extend the lease is given and March 15th preceding the commencement of the lease extension term, the parties shall meet in an attempt to establish the fair market value. If the parties cannot agree, then the parties shall attempt to agree on a licensed appraiser to perform an appraisal. Each party shall be responsible for ½ of the appraisal cost. If the parties cannot agree on an appraiser then the parties shall each choose an appraiser and the two appraisers shall choose a third appraiser who shall then perform the appraisal.

5. Utilities. Lessee agrees to pay for all utilities charges associated with Lessee's use of the Leased Premises, except for water charges. Provided, however, Lessor shall be responsible for any utility assessment charged to the Subject Property for system wide utility improvements, such as, but not limited to LID and ULID assessments.

6. Parking.

6.1 Lessee shall be provided with a minimum of 15 parking stalls. The Parking stalls shall not be reserved stalls, but will be undesignated stalls within the common surface parking area on the Subject Property, adjacent to the office building. Lessor agrees that he will not allow further uses on the Subject Property that would require the use of any of the 15 stalls in order to meet City of Black Diamond parking requirements, nor shall the Lessor enter into other contractual arrangements for parking that would require the use of the undesignated 15 stalls to meet the contractual obligation..

6.2 Lessee shall make a one time payment to Lessor of Two Thousand Five Hundred Dollars and no/100 (\$2,500.00) to be used for parking lot improvements.



Lessor



Lessee

7. 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.

8. Assignment and Subletting. Lessee shall not assign this Lease nor sublet the leased premises without Lessor's written consent.

9. 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.

10. Use of Premises. Lessee will not make any changes or alterations to the property without Lessor's prior written consent, which consent will not be unreasonably withheld. Lessee agrees not to violate any law, ordinance, rule, or regulations of any governmental authority having jurisdiction of the leased premises. Provided, it is anticipated that the Lessee may desire to make improvements to the inside of the building in order to make it accommodate the intended purpose of using the building for City offices. The Lessor shall consent to such tenant improvements as necessary to carry out the purpose of the lease of the Leased Premises and cooperate in obtaining necessary permits, if necessary, to do so if all the following conditions are met:

- (1) Adequate assurances are provided to protect the Subject Property from any liens;
- (2) The permitting process and structure improvements are done at no expense to Lessor;
- (3) The Lessee agrees to indemnify and hold the Lessor harmless from any claims relative to the building interior modifications; and

11. 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.

12. 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 Leased Premises.

13. 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 of receipt of a 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
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



Lessor



Lessee

that he was authorized to execute the instrument and acknowledged it as the Managing Member of Sorci Family LLC. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 6/30/08



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

MS [Signature]
Lessor Lessee

EXHIBIT A

LEGAL DESCRIPTION

POR NE 1/4 BEG NE COR TH S ALG E LN 1296.05 FT TH S 89-51-08 W 239.34 FT TAP ON E LN TR DESC AUD # 3031570 & TPOB TH N 87-45-28 W 238.48 FT TO W LN TR DESC AUD #1645619 TH N 3-30-28 W COMMON WITH LN DESC AUD #1645619 240.81 FT TH S 87-45-28 E 180.9 FT TH S 63-12-28 E TO NE COR TR DESC AUD #3031570 TH S 0-08-52 E COMMON WITH LN DESC AUD #3031570 TO TPOB AKA POR OF PCL 1 OF BLACK DIAMOND SP NO 78-007 RECORDING NO 7811039014 TGW N 93 FT OF FOLG DESC PCL - BEG NE COR SD SEC 15 TH S ALG E LN OF SEC 1915.41 FT TH S 89-51- 08 W 440.67 FT TO SW COR OF TR CONV UNDER AUD #1645619 & TPOB TH N 03-30-28 W ALG W LN OF SD TR 630.39 FT M/L TO SW COR SD PCL 1 BD SP 78-007 REC #7811039014 TH S 87-45-28 E 178.48 FT M/L TAP 60 FT W FR TR DESC UNDER REC # 7501070376 TH S 0-08-52 E 320 FT M/L PLT W LN OF SD TR TAP 60 FT W FR SW COR THOF TH S 05-45-43 W 308 FT M/L TO SE COR OF TR DESC UNDER AUD #1656204 TH N 87-45-28 W ALG S LN OF TRS DESC UNDER AUD #1656204 & 1645619 DIST 110 FT TO TPOB - SD PCL CONTAINS ALL OF LOT B OF BLACK DIAMOND LLA #90-02 REC #9002280435

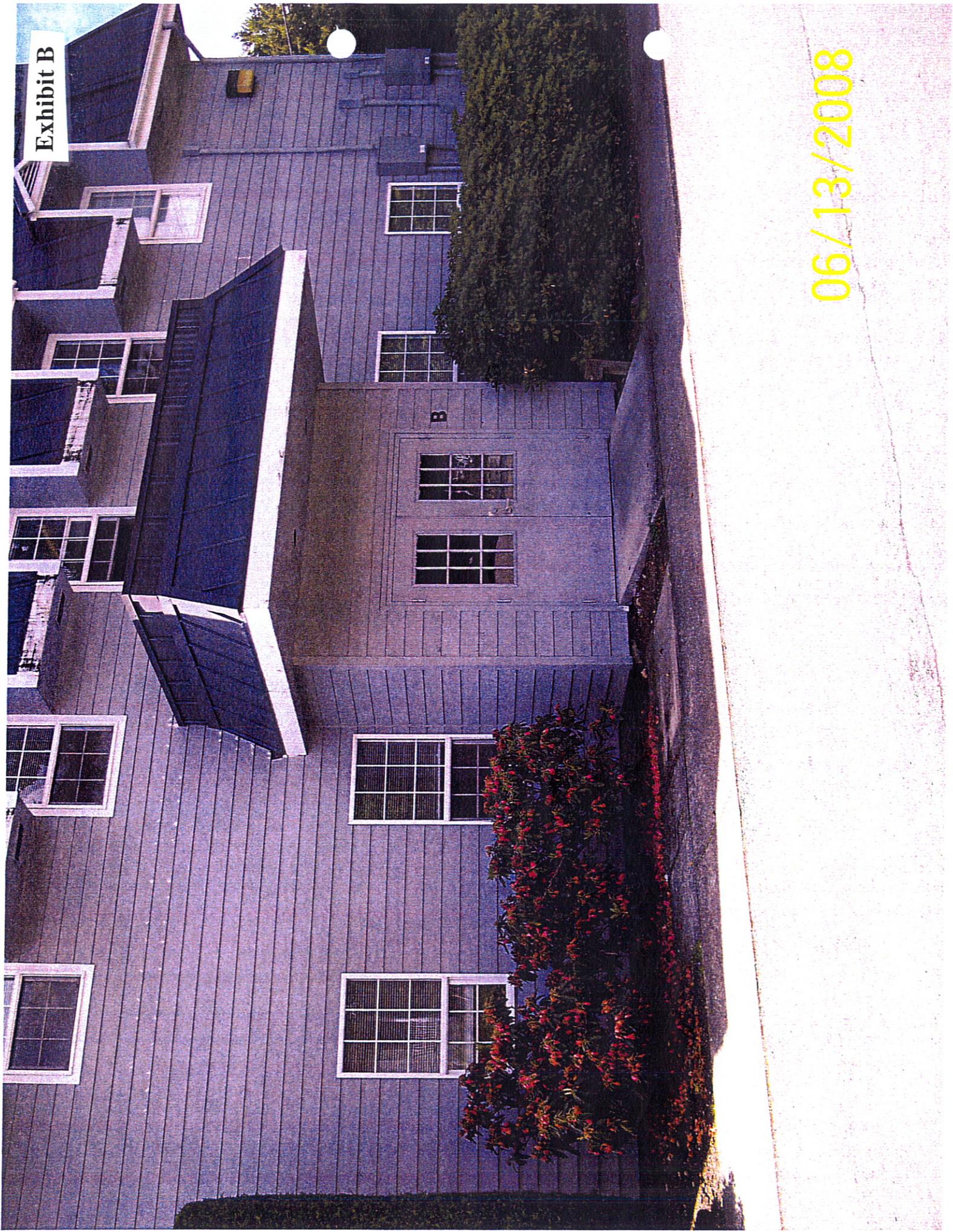


Lessor



Lessee

Exhibit B



06/13/2008