

RESOLUTION NO. 12-790

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO ENTER INTO A LEASE
AGREEMENT WITH THE BLACK DIAMOND HISTORICAL
SOCIETY**

WHEREAS, the City is authorized to enter into lease agreements with non-profit corporations; and

WHEREAS, the current lease agreement with the Black Diamond Historical Society expires on March 31, 2012; and

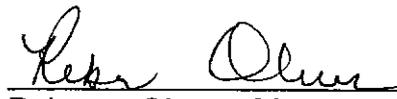
WHEREAS, in consideration of the public benefit the Black Diamond Historical Society provides for the City and its citizens, it is the desire of both the City of Black Diamond and the Black Diamond Historical Society to enter into a new lease agreement;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

Section 1. The Mayor is hereby authorized to execute a Lease Agreement between the City of Black Diamond and the Black Diamond Historical Society substantially in the form attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF MARCH,
2012.**

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

CONFORMED COPY

After Recording Return to:
City of Black Diamond
PO Box 599
Black Diamond, WA 98010

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CITY OF BLACK LE 69.00
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COMMERCIAL LEASE

THIS LEASE made this 1st day of April, 2012 by and between the City of Black Diamond, a municipal corporation, organized under the Optional Municipal Code, hereinafter called "Lessor", and the Black Diamond Historical Society, a non profit corporation, hereinafter referred to as "Lessee".

WITNESSETH:

1. PREMISES: Lessor does hereby lease to Lessee those certain lands and improvements legally described on Exhibit "1" attached hereto and incorporated herein as if set forth in full, commonly known as the site upon which the Black Diamond Historical Society and Museum is located in Black Diamond, King County, Washington.
2. TERM: The term of this Lease shall be for ten (10) years commencing the 1st day of April, 2012.

3. RENT: Lessee covenants and agrees to pay the Lessor as rental for said premises the sum of One and no/100 (\$1.00) DOLLAR per year. Rent is payable in advance of the 1st day of the year to Lessor at City Hall, Black Diamond. The parties agree that the benefit to the citizens of the City of Black Diamond provided by the Black Diamond Historical Society and Museum is greater than or equal to the fair market value of the leased premises.
4. REPAIRS AND MAINTENANCE: Premises have been inspected and are accepted by Lessee in their present condition. Lessee shall, at its own expense, and at all times, keep the premises neat, clean and in a sanitary condition, and keep and use the premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities. Lessee shall permit no waste, damage or injury to be premises; keep all drain pipes free and open; protect water, heating, gas and other pipes to prevent freezing or clogging; repair all leaks and damage caused by leaks; replace all glass in windows and doors of the premises which may become cracked or broken; and remove ice and snow from sidewalks. The roof, exterior walls and foundations, which are the responsibility of the Lessee, Lessee shall make such repairs as necessary to maintain the premises in as good a condition as they now are in, reasonable use and wear and damage by fire and other casualty excepted.
5. UTILITIES AND FEES: Lessor agrees to pay all charges for lights, heat water, sewer, and stormwater and all other utilities and services to the premises; and all license fees and other governmental charges levied on the operation of Lessee's business on the premises.
6. ACCIDENTS AND LIABILITIES: Lessor shall provide property and liability insurance for the premises. At such time as the Lessor is unable or unwilling to continue to provide such insurance, the insurance shall be provided by the Lessee in such amounts and limits as acceptable to the Lessor.
7. USE: Lessee shall use the premises for the purpose of operating a museum, historical site, and other civic uses that would benefit the historical society.
8. LIENS AND INSOLVENCY: Lessee shall keep the premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by Lessee and shall hold Lessor harmless against the same. In the event Lessee becomes insolvent, bankrupt, or if a receiver, assignee or other liquidating officer is appointed and not dismissed within thirty (30) days for the business of Lessee, Lessor may cancel this Lease at its option.
9. SUBLETTING OR ASSIGNMENT: Lessee shall not sublet the whole or any part of the premises, nor assign this lease without written consent of the Lessor.

10. ACCESS: Lessor shall have the right to enter the premises at all reasonable times for the purpose of inspection or of making repairs, additions or alterations, and to show the premises to prospective tenants for sixty (60) days prior to the expiration of the lease term.
11. POSSESSION: Lessor shall deliver possession of the premises to Lessee at the commencement of the term.
12. FIRE AND OTHER CASUALTY: In the event the premises are destroyed or damaged by fire, earthquake or other casualty to such an extent as to render the same untenable in whole or in a substantial part thereof, it shall be optional with the Lessor to rebuild or repair the same; and after the happening of any such contingency, the Lessee shall give Lessor or Lessor's agents immediate written notice thereof. Lessor shall have not more than ninety (90) days after date of such notification to notify the Lessee in writing of Lessor's intentions to rebuild or repair said premises, or the part so damaged as aforesaid, and if Lessor elects to rebuild or repair said premises, Lessor shall prosecute the work of such rebuilding or repairing without unnecessary delay and during such period the rent of said premises shall be abated in the same ratio that that portion of the premises rendered for the time being unfit for occupancy shall bear to the whole of the leased premises. If the Lessor shall fail to give the notice aforesaid, Lessee shall have the right to declare this lease terminated by written notice served upon Lessor or Lessor's agents.

In the event the building in which the premises hereby leased are located shall be destroyed or damaged by fire, earthquake or other casualty (even though the premises hereby leased shall not be damaged thereby) to such an extent that in the opinion of the Lessor it shall not be practicable to rebuild or repair, then it shall be optional with the Lessor to terminate this lease by written notice served on Lessee within ninety (90) days after such destruction or damage.

13. SIGNS: Lessee may install signs on the premises, as Lessee deems appropriate to identify Lessee's business. At the termination of this lease, Lessee will remove all signs place by it upon premises, and will repair any damage caused by such removal, and replace prior signposts and cover at the option of Lessor.
14. ALTERATIONS: After prior written consent of Lessor, Lessee may make alterations, additions and improvements in said premises, at its sole cost and expense. In the performance of such work, Lessee agrees to comply with all laws, ordinances, rules and regulations of any proper public authority, and to save Lessor harmless from damage, loss or expense. Upon termination of this lease and upon Lessor's request, or Lessor's approval, Lessee shall remove such

improvements and restore the premises to its original condition at option of Lessor, not later than the termination date, at Lessee's sole cost and expense. Any improvements not so removed shall remain in and be surrendered with the premises as a part thereof. Trade fixtures may be removed at Lessee's expense provided that Lessee shall pay for any damage caused by such removal.

15. DEFAULT AND RE-ENTRY: If Lessee shall fail to keep and perform any of the covenants and agreements herein contained, including the payment of rent, and such failure continued for thirty days after written notice from Lessor, unless the rent is paid or appropriate action has been taken by Lessee in good faith to cure such failure, Lessor may terminate this lease and re-enter said premises, and sublet the whole or any part thereof for the account of the Lessee upon as favorable terms and conditions as the market will allow for the balance of the term of the lease and Lessee covenants and agrees to pay to Lessor any deficiency arising from a re-letting of the premises at a lesser amount than herein agreed to. Lessee shall pay such deficiency each month as the amount thereof in ascertained by Lessor.
16. REMOVAL OF PROPERTY: In the event Lessor lawfully re-enters the premises as provided herein, Lessor shall have the right, but not the obligation, to remove all the personal property located therein and to place such property in storage at the expense and risk of Lessee.
17. COSTS ATTORNEY FEES: If by reason or any default on the part of the Lessee it becomes necessary for the Lessor to employ an attorney or in case Lessor shall bring suit to recover any rent due hereunder, or for breach of any provision of this lease or to recover possession of the leased premises, or if Lessee shall bring any action for any relief against Lessor, declaratory or otherwise, arising out of this lease and Lessor shall prevail in such action, then and in any of such events Lessee shall pay Lessor a reasonable attorney's fees and all costs and expenses expended or incurred by the Lessor in connection with such default or action.
18. NO WAIVER OR COVENANTS: Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future similar breach. This lease contains all the agreements between the parties; and there shall be no modification of the agreements contained herein except by written instrument.
19. SURRENDER OF PREMISES: Lessee agrees, upon termination of this lease, to peacefully quit and surrender the premises without notice, leave the premises neat and clean, and to deliver all keys to the premises to Lessor. Lessee agrees to leave all buildings and facilities that it has constructed.
20. HOLDING OVER: If Lessee, with the implied or expressed consent of Lessor, shall hold over after the expiration of the term of this lease, Lessee shall remain

bound by all the covenants and agreements herein, except that the tenancy shall be from month to month.

21. **NOTICE:** Any notice required to be given by either party to the other shall be deposited in the United States mail, postage paid, addressed to Lessor at City Hall, City of Black Diamond, P.O. Box 559, Black Diamond, Washington 98010, or to Lessee at Black Diamond Historical Society, P.O. Box 232, Black Diamond, Washington 98010, or at such other address as either party may designate in writing from time to time.

22. **TIME IS OF THE ESSENCE OF THIS LEASE:**

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date first above written.

LESSEE:
Black Diamond Historical Museum

LESSORS:
City of Black Diamond

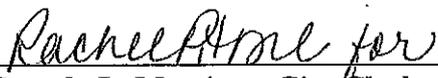


President



Mayor Rebecca Olness

Attested:



Brenda L. Martinez, City Clerk

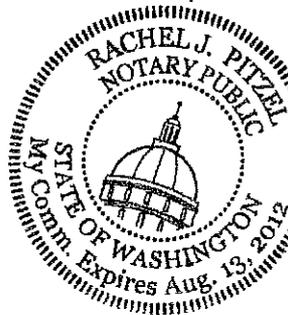
STATE OF WASHINGTON)

:SS.

County of KING)

On this day personally appeared before me Rebecca Olness to me known to be the Mayor of the City of Black Diamond, described in and who executed the within and foregoing instruments, and acknowledged that he signed the same as the City's free and voluntary act and deed for the uses and purposes herein mentioned.

GIVEN under my hand and official seal this 16th day of March, 2012.



Rachel Pitzel
NOTARY PUBLIC in and for
the State of Washington residing
at Black Diamond
My commission expires 8/13/12

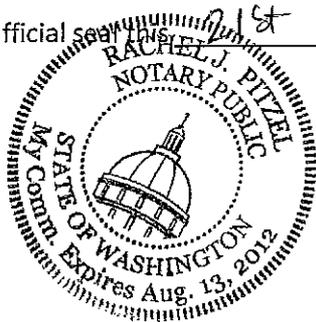
STATE OF WASHINGTON)

:SS.

County of KING)

On this day personally appeared before me Keith Watson to me known to be the President of the Black Diamond Historical Society, described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as the H. Society free and voluntary act and deed for the uses and purposes herein mentioned.

GIVEN under my hand and official seal this 15th day of March, 2012.



Rachel Pitzel
NOTARY PUBLIC in and for
the State of Washington residing
at Black Diamond
My commission expires 8/13/12

EXHIBIT 1

The following described premises situated in King County, Washington, to wit:

Being a portion of Qtr-NW, Sec 14, Twp-21, Rge-6, Lot 1, Block 12. Parcel number 084400-0600-0. Known as 32627 Railroad Avenue, Black Diamond, Washington 98010