

RESOLUTION NO. 17-1181

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE CITY COUNCIL TO APPROVE THE
TOUGH MUDDER SPECIAL EVENT SEP17-0004**

WHEREAS, Tough Mudder, LLC has proposed a two-day athletic event to occur on private property and a portion of Lake Sawyer Regional Park within the city limits on September 16th and 17th, 2017; and

WHEREAS, Black Diamond Municipal Code 2.59.040(B) requires the City Council to approve any special event that exceeds one day in duration; and


WHEREAS, City staff has reviewed the proposed activity and recommends it be approved, subject to the comments/conditions;

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 the approval of Special Event Permit #SEP17-0004 for the Tough Mudder two-day event to be held on September 16th and 17th, 2017.

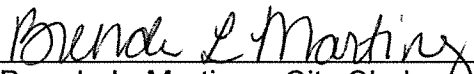
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 17TH DAY OF AUGUST, 2017.

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

Attest:



Brenda L. Martinez, City Clerk



**Washington State
Department of Transportation**

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710
206-440-4000
TTY: 1-800-833-6388
www.wsdot.wa.gov

August 4, 2017

Jen Mizono,
Manager of Event Operations Western Region
Tough Mudder, Inc.
15 Metrotech Center, Floor 7
Brooklyn, NY 11201

Dear Ms. Mizono:

Enclosed for signature and return is our WSDOT Northwest Region Special Event Letter of Agreement #17Apr815 for Tough Mudder Seattle PCMS placement on SR 169 from Saturday, September 16th 2017 through Sunday, September 17th 2017; and, flagging operations on SR 169 on Saturday, September 16th and Sunday, September 17th 2017.

Please review the agreement carefully and indicate your concurrence by countersigning and returning the enclosed copy for final processing by Tuesday, August 15th 2017. You may email the agreement to Patricia Hardway (hardwap@wsdot.wa.gov) and myself (NauB@wsdot.wa.gov) at the Washington State Department of Transportation, P.O. Box 330310, MS 125, Seattle, WA 98133-9710; or, fax to 206-440-4804. Please note that failure to meet the conditions set forth in the agreement will render the agreement invalid.

Should you have any questions or concerns, you may contact Patricia Hardway of my staff at 206-440-4474.

Sincerely,

for Bonnie Nau
Construction Traffic & Central Operations Manager

BN/pjh
Enclosure: Agreement; Exhibit A

WSDOT NW Region Special Event Letter of Agreement #17Apr815
Tough Mudder Seattle -- SR 169

This agreement is made and entered into on this 8 day of Aug 2017, by and between the Manager of Event Operations Western Region, *Jen Mizono*, hereinafter referred to as the "EVENT COORDINATOR," representing *Tough Mudder, Inc.*, for the purpose of staging an event on state highway(s) rights of way.

Event Description

The 2017 **Tough Mudder Seattle** is hereinafter referred to as the "EVENT".

Whereas, WSDOT and the Washington State Patrol, hereinafter referred to as "WSP" have determined that the EVENT may impact normal traffic operations on state highway(s) to the extent that special traffic controls or other safety considerations are required.

Whereas, WSDOT with the advice of WSP conditionally approves **EVENT sign placement and traffic control within Black Diamond city limits and per city permit, at the access to the Palmer Coking Coal Company (31407 3rd Avenue Enumclaw-Black Diamond Road), in the vicinity of SR 169 mileposts 6.75 to 7.00, on the dates of Saturday, September 16th and Sunday, September 17th 2017**, as follows:

1. The City of Black Diamond Police Department may conduct flagging operations at the business access entrance of the Palmer Coking Coal Company as determined in the traffic control plan approved and provided by the City of Black Diamond. The flagging hours of Police presence at the business interest are as follows:

Saturday, September 16th -- from 7:00 a.m. to 6:00 p.m.
Sunday, September 17th -- from 7:00 a.m. to 6:00 p.m.
2. EVENT PCMS placement on **SR 169, in the vicinity of mileposts 6.75 to 7.00**, subject to the terms and conditions of the City of Black Diamond permit, the Traffic Control section of this Agreement and the traffic control plan approved and provided by the City of Black Diamond.

The abovementioned operations are subject to the terms and conditions in this Agreement, including any Exhibits or Attachments.

Administration and Procedures

1. WSDOT enters into this written agreement with you for the purpose of defining responsibilities and requirements for EVENT operations on state highways. This

Agreement is not effective unless or until signed by you and countersigned by WSDOT prior to the commencement of the EVENT. WSDOT assumes no obligation for any EVENT, pursuant to an agreement form that is unsigned, or altered by the EVENT COORDINATOR without WSDOT concurrence. WSDOT reserves the right to postpone or deny an EVENT operation when approval is requested without sufficient advance notice, as determined by WSP or WSDOT.

2. You are encouraged to use county roads or city streets if at all possible. You are responsible for securing approval from local agencies or communities in unincorporated areas that may be impacted by the EVENT. If the EVENT takes place on city streets without access control that are part of state highways, you shall furnish WSDOT with courtesy copies of any traffic control, insurance, or liability agreements made with local agencies.
3. **This agreement is contingent upon an issue of permit and approval of Traffic Control by the City of Black Diamond.**
4. You are responsible for any and all costs incurred by WSDOT and WSP during implementation and operation of the EVENT. WSDOT and WSP shall submit separate billings to you to recover individual agency costs and shall be paid by you within 30 days from receipt of the billing. If the EVENT operations require substantial use of WSDOT labor and/or equipment and materials, (to be determined solely by WSDOT, whose determination shall be deemed conclusive), you shall post a payment bond.
5. You are responsible for cleaning up immediately after EVENT operations and returning any and all state highway facilities to the state or condition that existed prior to the EVENT.
6. Any base of operations, or storage or staging area for the EVENT shall be located outside the state's right of way. Prior authorization from WSDOT shall be required for any base of operations, storage or staging areas to be located within the right of way.
7. Information in attached EXHIBITS may identify existing regulatory prohibitions of specific types of traffic on limited access highways, such as the pedestrian prohibition on full access controlled highways.

Liability

1. EVENT COORDINATOR, at solely his or her expense, shall obtain and keep in force

during the term of the EVENT, general liability insurance coverage in an amount no less than \$1 million per occurrence (combined single limit of liability) and \$2 million in the aggregate providing bodily injury, property damage, and personal injury coverage for the state of Washington for any liabilities, including all costs of defense, arising out of the use of state highways for the EVENT. Said general liability coverage shall be written on an “occurrence” basis, not a “claims made” basis, and shall provide coverage no less than the coverage provided by a *Commercial General Liability Coverage Form (CG 00 01 07 98 ISO* or later). Said policy shall not be subject to any self-insured retained limit of liability, or endorsements that would limit the coverage provided by the original policy form, except to the extent that coverage is limited to claims arising from the EVENT. EVENT COORDINATOR, at his or her expense, shall obtain and keep in force during the term of the EVENT commercial automobile liability coverage in an amount no less than \$1 million per occurrence (combined single limit of liability) providing bodily injury and property damage coverage for the State of Washington as an additional insured under said policy. Said liability coverage shall provide coverage no less than the coverage provided by a *Commercial Automobile Liability Form (CA 00 01 07 97 ISO* or later). Said policy shall not be subject to any self-insured retained limit of liability, or any endorsement that would limit the coverage provided by the original policy form, except to the extent that coverage is limited to claims arising from the EVENT. An affidavit verifying proof of insurance reflecting the required coverage is required and must be in the possession of WSDOT and WSP prior to commencement of the EVENT.

4. EVENT COORDINATOR shall indemnify and hold the state of Washington harmless against any and all claims or actions of any type of nature by third parties for injuries or property damage, including all costs of defense, caused by or arising out of the EVENT.

Venue

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties hereto agree that any such action or proceeding shall be brought in a court of competent jurisdiction situated in Thurston County, Washington, and EVENT COORDINATOR herein submits to jurisdiction thereunder.

Traffic Control

WSDOT has determined that a traffic control plan is necessary for this EVENT and shall be approved by the City of Black Diamond. Operational details specific to the EVENT shall be contained in the traffic control plan. All components of the traffic control plan shall conform to the standards of the Manual on Uniform Traffic Control

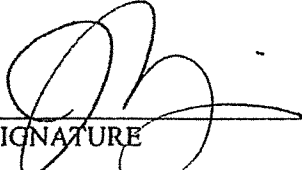
Devices (MUTCD). In addition, traffic control plans shall meet the following requirements and restrictions:

- EVENT COORDINATOR is responsible for acquiring all traffic control devices, and shall have all traffic control devices installed per approved plan prior to commencement of the EVENT.
 - EVENT COORDINATOR will provide two PCMS (Portable Changeable Message) boards for placement starting Saturday, September 16th 2017. The PCMS are to be located on Northbound and Southbound SR 169 approximately one-half mile in advance of the EVENT entrance, as shown on the City of Black Diamond approved and provided Traffic Control Plan. The PCMS will be turned off immediately upon the EVENT's conclusion, and removed shortly thereafter. Each PCMS will read:
 - *One week prior and up to the day of the EVENT:*
Phase 1 (2 seconds) "EVENT TRAFFIC SEP 16-17"
Phase 2 (2 seconds) "XX AM to XX PM".
 - *Days of the EVENT:*
Phase 1 (2 seconds) "EVENT TRAFFIC AHEAD"
Phase 2 (2 seconds) "EXPECT DELAYS"
 - THERE SHALL BE NO ADVERTISING OF THE EVENT MESSAGING ON PCMS. MESSAGING APPROVED FOR TRAFFIC INFORMATION ONLY.
 - The PCMS must be removed at the EVENT's conclusion on Sunday, September 17th 2017, or on Monday, September 18th 2017.
 - **Traffic control operations shall be performed by off-duty City of Black Diamond Police officers, and in accordance with the City of Black Diamond approved traffic control plan, and city permit.**
 - The EVENT COORDINATOR is required to comply with RCW 47.48.020. A copy of RCW 47.48.020 is attached as **EXHIBIT A**. It may or may not contain current amendments.
2. EVENT COORDINATOR and WSDOT do agree that operational decisions and/or emergency situations may require road/lane closures to be opened immediately. WSP is responsible for traffic enforcement, and has final authority regarding the location

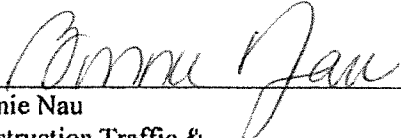
and specific time of day that any road/lane closures, or any other part of the traffic control plan may be implemented. Neither WSDOT nor WSP shall be liable for any damages, or loss arising from the decision to reopen lanes during an EVENT closure.

Please indicate your concurrence by countersigning and returning the enclosed copy of this **WSDOT Northwest Region Special Event Letter of Agreement # 17Apr815** to the address or fax number provided below; failure to do so, or any alteration of this document will render this agreement invalid. If you have any questions or concerns, please contact Patricia Hardway at 206-440-4474.

Event Signature


SIGNATURE
Jen Mizono
PRINTED NAME
Operations Manager
TITLE AS OFFICE WITH (event name)
8/8/17
DATE

WSDOT Signature


Bonnie Nau
Construction Traffic &
Central Operations Manager
WSDOT OFFICE TITLE
Aug 8, 2017
DATE
15700 Dayton Avenue North, MS 125
P.O. Box 330310
Seattle, Washington 98133-9710
ADDRESS
206 - 440 - 4804
FAX #

BN/pjh

Enclosures: Agreement; Exhibit A

cc: Stephanie Porter/WSP
Andrew Williamson/BlkDiamond
Area 4 Maintenance
WSDOT NWR TMC Engineers
NW Construction
Juan Reyes
Fred Lintz
**WSDOT NW Region Event
Agreement #17Apr815;
2017 Tough Mudder Seattle**

RCW 47.48.020

Notice of closure or restriction -- Emergency closure.

Before any state highway, county road, or city street is closed to, or the maximum speed limit thereon reduced for, all vehicles or any class of vehicles, a notice thereof including the effective date shall be published in one issue of a newspaper of general circulation in the county or city or town in which such state highway, county road, or city street or any portion thereof to be closed is located; and, a like notice shall be posted on or prior to the date of publication of such notice in a conspicuous place at each end of the state highway, county road, or city street or portion thereof to be closed or restricted: PROVIDED, That no such state highway, county road, or city street or portion thereof may be closed sooner than three days after the publication and the posting of the notice herein provided for: PROVIDED, HOWEVER, That in cases of emergency or conditions in which the maximum time the closure will be in effect is twelve hours or less the proper officers may, without publication or delay, close state highways, county roads, and city streets temporarily by posting notices at each end of the closed portion thereof and at all intersecting state highways if the closing be of a portion of a state highway, at all intersecting state highways and county roads if the closing be a portion of a county road, and at all intersecting city streets if the closing be of a city street. In all emergency cases or conditions in which the maximum time the closure will be in effect is twelve hours or less, as herein provided, the orders of the proper authorities shall be immediately effective.

[1982 c 145 § 5; 1977 ex.s. c 216 § 2; 1961 c 13 § 47.48.020. Prior: 1937 c 53 § 66, part; RRS § 6400-66, part; prior: 1921 c 21 § 2, part; RRS § 6840, part. Formerly RCW 47.48.020 and 47.48.030.]

WSDOT Northwest Region Special Event Agreement

EXHIBIT A



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/4/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER BWD Sports and Entertainment, LLC 45 Executive Drive Plainview NY 11803-9001	CONTACT NAME: PHONE (A/C, No, Ext): 516-327-2700 E-MAIL ADDRESS: FAX (A/C, No): 516-327-2800
INSURED TOUGMUDD Tough Mudder Inc. 15 MetroTech Center, 7th Floor Brooklyn NY 11201	INSURER(S) AFFORDING COVERAGE INSURER A : Everest National Insurance Company 10120 INSURER B : ACE American Insurance Company 22667 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES

CERTIFICATE NUMBER: 235394048

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y		S18ML00448161	12/31/2016	12/31/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$N/A PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	Y		S18ML00448161	12/31/2016	12/31/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N	N/A			WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Participant Accident Medical			PTPN04969443	12/31/2016	12/31/2017	Accidental Death: \$10,000 Accidental Medical: \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Washington State Department of Transportation, the State of Washington, its elected and appointed officials and officers, its departments, agencies, boards, commissions, authorized agents, and employees are included as additional insureds as required by WSDOT Special Event Agreement in connection with Tough Mudder Seattle events on September 16 & 17, 2017. This insurance is primary and non-contributory for the additional insureds. Waiver of subrogation and separation of insureds are included.

CERTIFICATE HOLDER**CANCELLATION**

Washington State Dept. of Transportation
 NW Region CTCO MS 125
 Bonnie Nau; Patricia Hardway
 15700 Dayton Ave. N
 PO Box 330310
 Seattle WA 98133-9710

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Notification of Special Event on State Highways

Please provide the following information for each item below that applies to your event:

Contact information: Jen Mizono

Sponsoring Organization: Tough Mudder Inc.

Name of Signature Authority: Tough Mudder Inc.

Address: 15 Metrotech Ctr. 7th Floor

City: Brooklyn

State: NY

Zip code: 11201

Phone: 925-786-7482

Signature Authority E-mail: jen.mizono@toughmudder.com

Event or activity website address: toughmudder.com

Name of the event or activity: Tough Mudder Seattle

Describe the event or activity:

10 mile mud obstacle endurance run

Date and time event or activity starts:

Saturday 9/16/17 7am and Sunday 9/17/17 at 8am

Date and time event or activity finishes:

Saturday 9/16/17 at 6pm and Sunday 9/17/17 at 5pm

Name of the city the event or activity begins in and the cross streets:

Black Diamond, WA - Palmer Coking Coal on Hwy 169 and 3rd Ave.

Name of the city the event or activity ends in and the cross streets:

Black Diamond, WA - Palmer Coking Coal on Hwy 169 and 3rd Ave.

Number of participants:

Saturday 9/16/17, ~7800 and Sunday 9/17/17, ~1300

Did this event or activity happen previously? (month, day, year)

Yes, September 24-25, 2016

Will there be road closures?

No, all private roads.

Have you prepared a traffic control plan that complies with the Manual on Uniform Traffic Control Devices (MUTCD):
(lane or road closures)

Yes, please see attached parking and traffic plan.

Describe how and where support/escort vehicles will operate:

Yes, please see attached parking and traffic plan with police posts.

Provide information about event participant compliance with laws pertaining to the use of state highways during the course of event:

Yes, please see attached parking and traffic plan.

Be prepared to provide a copy of the registration and event or activity waiver.

Contact the nearest WSDOT Regional Traffic Office if you need help completing this form. The form can be submitted electronically, or, you can submit a paper copy to the nearest WSDOT Regional Traffic Office.