



**CITY OF BLACK DIAMOND**  
**May 3, 2012 Meeting Revised Agenda**  
25510 Lawson St., Black Diamond, Washington

**7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL**

**Flag Salute – Cub Scout Troop 581**

**PUBLIC COMMENTS:** Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending this evening.

**PUBLIC HEARINGS: None**

**APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:**

**Proclamation – Building Safety Month**

Mayor Olness

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- |  |               |
|--|---------------|
| 1.) <b>AB12-024</b> – Resolution Accepting DOE Grant for Aquatic Weeds Management Plan for Lake Sawyer           | Mr. Nix       |
| 2.) <b>AB12-025</b> – Resolution Designating FEMA Responsible Agents   | Mr. Boettcher |
| 3.) <b>AB12-026</b> – Resolution Accepting Public Assistance Grant Agreement for January 2012 Severe Storm Event | Mr. Boettcher |
| 4.) <b>AB12-027</b> – Resolution Approving Aquatic Lands Lease from DNR  | Mr. Boettcher |
| 5.) <b>AB12-028</b> – Resolution Authorizing Vehicle Purchase for MDRT   | Mr. Pilcher   |

**DEPARTMENT REPORTS:**

**MAYOR'S REPORT:**

**COUNCIL REPORTS:**

**ATTORNEY REPORT:**

**PUBLIC COMMENTS:**

**CONSENT AGENDA:**

- 6.) **Claim Checks** – May 3, 2012 Check No. 38201 through No. 38248(voided Check No. 37920) in the amount of \$64,612.54
- 7.) **Minutes** – Town Hall Meeting Minutes of April 12, 2012, Council Workstudy Notes of April 17, 2012, and Council Meeting Minutes of April 19, 2012

**EXECUTIVE SESSION:**

**ADJOURNMENT:**

**Office of the Mayor**  
Black Diamond, Washington



**PROCLAMATION**

**WHEREAS**, our City's continuing efforts to address the critical issues of safety, energy efficiency and sustainability in the built environment that affect our citizens, both in everyday life and in times of natural disaster, give us confidence that our structures are safe and sound; and

**WHEREAS**, our confidence is achieved through the devotion of building safety and fire prevention officials, architects, engineers, builders, laborers and others in the construction industry, who work year-round to ensure the safe construction of building; and

**WHEREAS**, the dedicated members of the International Code Council develop and implement the highest-quality codes to protect citizens in the buildings where we live, learn, work, worship, play; and

**WHEREAS**, the International Codes, the most widely adopted building safety, energy and fire prevention codes in the nation, have been adopted for use in Washington State and in Black Diamond; and

**WHEREAS**, Building Safety Month is sponsored by the International Code Council and International Code Council Foundation, to remind the public about the critical role of our local code officials, who assure us of safe, efficient and livable buildings; and

**WHEREAS**, "Building Safety Month: An International Celebration of Safe and Sensible Structures", the theme for Building Safety Month 2012, encourages all Americans to raise awareness of the importance of building safety; green and sustainable building; pool, spa and hot tub safety; and new technologies in the construction industry. Building Safety Month 2012 also encourages appropriate steps everyone can take to ensure that the places where we live, learn, work, worship and play are safe and sustainable, and recognizes that countless lives have been saved due to the implementation of safety codes by local and state agencies; and

**WHEREAS**, each year, in observance of Building Safety Month, Americans are asked to consider projects to improve building safety and sustainability at home and in the community, and to acknowledge the essential service provided to all of us by local building departments in protecting lives and property;

**NOW, THEREFORE**, I, Rebecca Olness, Mayor of the City of Black Diamond, on behalf of the Black Diamond City Council, do hereby proclaim in the City of Black Diamond, the month of May 2012, as

**BUILDING SAFETY MONTH**

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Rebecca Olness, Mayor

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>Resolution No. 12-796, acceptance of a grant from the Department of Ecology for monies dedicated towards the development of an Integrated Aquatic Weeds Management Plan for Lake Sawyer.</b>	<b>Agenda Date: May 3, 2012</b>	
	<b>AB12-024</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney – Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	<b>X</b>
	Economic Devel. – Andy Williamson	
Cost Impact: \$39,934.00	Police – Jamey Kiblinger	
Fund Source: General Fund, Grant	Court – Stephanie Metcalf	
Timeline: December 13, 2014, due to DOE	Comm. Dev. – Steve Pilcher	
<b>Attachments: Resolution No. 12-796; Grant Application;, Award letter and Ecology contract</b>		
<b>SUMMARY STATEMENT:</b> <p>Working with King County staff, City staff developed an application for the development of an Integrated Aquatic Weed Management Plan to look at the extent of weed growth within Lake Sawyer, which will include public involvement in the process and examining alternatives in eradicating problem areas. The development of a plan and relative costs associated with controlling aquatic weeds would be examined. Staff has observed and received comments from citizens with regard to aquatic weeds and how they affect boating and other activities on the Lake. The application was sent in late November of 2011 to the Department of Ecology and City staff received word in early March 2012 that funding had been approved towards the project. The total grant allocation is \$25,000 from the Department of Ecology with the City contributing \$14,934.00, of which \$7,488 would be contributed by work of the Parks/Natural Resources Director in order to alleviate some of the costs. The remaining City contribution would be \$7,446 which would be utilized from the City's grant matching account.</p> <p>The development of an Integrated Aquatic Weeds Management Plan, once approved by the Department of Ecology, would qualify the City towards future grant monies that could be used in alleviating identified problem weed areas. Otherwise, other sources of financing will need to be identified if the City wishes to address this problem as this time.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION: N/A</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-796, authorizing the Mayor to accept grant funds from the Washington State Department of Ecology for the development of an Integrated Aquatic Weeds Vegetation Management Plan for Lake Sawyer.</b>		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 3, 2012		

**RESOLUTION NO. 12-796**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE MAYOR TO EXECUTE AN  
AGREEMENT WITH THE WASHINGTON STATE  
DEPARTMENT OF ECOLOGY FOR THE ACCEPTANCE OF  
GRANT MONIES TO BE USED TOWARDS THE  
DEVELOPMENT OF AN INTEGRATED AQUATIC WEEDS  
MANAGEMENT PLAN FOR LAKE SAWYER**

**WHEREAS**, in 2011, the City, in collaboration with King County staff, developed an application for acquiring funds in order to complete an Aquatic Weeds Vegetation Management Plan for the waters of Lake Sawyer in Black Diamond, WA; and

**WHEREAS**, in 2012, City staff received an award letter for \$25,000 from the Washington State Department of Ecology for funds to be used towards the development of said plan; and

**WHEREAS**, this plan will help City staff, as well as the public look at alternatives and costs associated with controlling aquatic weeds in Lake Sawyer, therefore helping improve water quality within the lake; and

**WHEREAS**, the acceptance of the Integrated Aquatic Weeds Management Plan by the Department of Ecology will make the City eligible for future grant resources as it pertains to aquatic weed management in the lake;

**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 an agreement with the Washington State Department of Ecology in the acceptance of grant funds used towards the development of an Integrated Aquatic Weeds Management Plan for Lake Sawyer, 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 3RD DAY OF MAY, 2012.**

CITY OF BLACK DIAMOND:

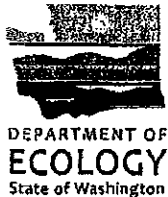
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Rebecca Olness, Mayor

Attest:

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Brenda L. Martinez, City Clerk



# Aquatic Weeds Management Fund Grant Application

FOR ECOLOGY USE  
Application Number

## - PART1- General Information

### 1. PROJECT TITLE (five words or less):

Lake Sawyer IAVMP

### 2. APPLICANT NAME

Name: City of Black Diamond

Address (If different from Signatory): PO Box 599, Black Diamond, WA 98010

Federal Identification Number: 91-6026204

### 3. AUTHORIZED SIGNATORY (The person whose name is listed here must sign Box 9 of this application)

Name: Rebecca Olness

Title: Mayor

Address: PO Box 599, Black Diamond, WA 98010

### 4. APPLICANT STAFF CONTACT

Name: Aaron Nix

Title: Parks/Natural Resources Director

Address: PO Box 599, Black Diamond, WA 98010

Telephone number: 360.886.2560 x220 Fax number: 360.886.2592 E-mail address: anix@ci.blackdiamond.wa.us

### 5. PROJECT DATA (Actual PROJECT data, not data of applicant)

If the project is not a statewide project, please indicate the county(s), the water resource inventory area(s), legislative districts, and congressional districts where at least five percent of the PROJECT will be accomplished. The total of each separate designation must equal 100 percent.

Counties		Water Resource Areas		Legislative Districts		Congressional Districts	
Name	Percent	Number	Percent	Number	Percent	Number	Percent
King County	100	9	100	5	100	8	100

**6. PROJECT DURATION**

Project Length (months or years): 30 months

Anticipated Start Date: July 2012

Anticipated Project Completion Date: December 2014

**7. PROJECT TYPE**

Has an integrated aquatic vegetation management plan been developed for this project? Yes ☐ No ☒

If yes, please provide the plan title and date that it was submitted to Ecology

**8. COST BREAKDOWN****Total Project Cost**

This amount is the total cost of the project and includes state and local costs \$ 39,934

**Ecology Grant Amount**

This amount represents the Ecology grant request, at 75 percent of the total project cost for an implementation or planning project or 87.5 percent of the maximum eligible project cost for a pilot project. Planning grants are capped at \$30,000 state share; Implementation grants are capped at \$75,000 state share. \$ 29,951

**Applicant Share**

This amount is 25 percent of the total project cost for planning or implementation projects and 12.5 percent of the total project cost for pilot projects. \$ 9,984

**9. SIGNATURE BOX**

I CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT AND THAT I AM LEGALLY AUTHORIZED TO SUBMIT THIS INFORMATION ON BEHALF OF THE APPLICANT.

Printed Name

Signature

Rebecca Olness

*Rebecca Olness*

Title

Date

Mayor

11/28/2011

## 10. APPLICATION SUBMITTAL

Send seven copies, one of which contains an original signature, to:

U.S. Postal Mailing Address:

Department of Ecology  
Water Quality Program  
P.O. Box 47600  
Olympia, WA 98504-7600

Overnight Mail or Hand Delivery Address:

Department of Ecology  
Water Quality Program  
300 Desmond Drive  
Lacey, WA 98503

NOTE: APPLICATIONS MUST BE RECEIVED AT THE DEPARTMENT OF ECOLOGY BY 5:00 P.M. ON THE CLOSING DATE. NO FACSIMILE OR ELECTRONIC APPLICATIONS WILL BE ACCEPTED. TO ENSURE DELIVERY OF APPLICATION BY THE DEADLINE, YOU MAY WISH TO CONSIDER USING RETURN RECEIPT MAIL.

*To ask about the availability of this document in a version for the visually impaired call the Water Quality Program at 360-407-6502. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.*

# Aquatic Weeds Management Fund Grant Application

## -Part 2- Project Proposal

This is the section of your application in which you describe your project. The information that you provide here will be used to evaluate the merit of your project and will provide the basis for our evaluation. Before describing your project, please carefully review the information in Chapter IV of the Aquatic Weeds Management Fund Program Guidelines.

Contact Melanie Tyler of the Department of Ecology if you have specific questions: by e-mail at [mety461@ecy.wa.gov](mailto:mety461@ecy.wa.gov) or by telephone at 360-407-7489. **ONLY INFORMATION SUBMITTED BEFORE THE APPLICATION DEADLINE WILL BE USED IN THE EVALUATION PROCESS.**

### Project Proposal

If your project implements an Integrated Aquatic Plant Management Plan, please enclose a copy of the plan or a plan approval letter from Ecology.

#### 1. EXECUTIVE SUMMARY

Please provide an overview of the proposed project. Limit your answer to 250 words.

- State the aquatic plants species targeted for action. *Invasive, non-native freshwater aquatic plants are given priority for grant funding.*
- Identify the water body or water bodies that will be involved and its relation to other infestations of the target plant species.
- Please include a map of the targeted water body or water bodies with the application.

Lake Sawyer is a 279 acre lake located in Water Resource Inventory Area (WRIA) 9 in the City of Black Diamond. It is in the northern section of the city, just west of Highway 169 and north of the Green River. The lake is surrounded by single-family homes but also has a city owned boat launch and a large, undeveloped city park that is located on the south end of the lake. Lake Sawyer is heavily used for fishing, boating, swimming and other recreational activities. It provides habitat for fish and wildlife in the area, including salmonids such as Coho, and ESA-listed steelhead.

Eurasian watermilfoil (*Myriophyllum spicatum*), yellow flag iris (*Iris pseudacorus*) and fragrant water lilies (*Nymphaea odorata*) are documented as being present at the lake; Eurasian watermilfoil is becoming particularly problematic. The lake is easily accessed by the public at the boat launch making milfoil easy to spread to nearby lakes such as Lake Wilderness, Pipe-Lucerne Lakes, Lake Desire and Spring Lake. *M. spicatum* has been eradicated from Pipe and Lucerne Lakes and is currently managed in Lake Wilderness and Spring Lake; reinfestation could negatively impact the management work done on these lakes. Milfoil will interfere with the recreational activities and decrease the habitat quality Lake Sawyer provides.

An Integrated Aquatic Vegetation Management Plan (IAVMP) is necessary in order to have a strategic plan for dealing with the several noxious weeds in and around the lake. It is important to survey the lake for



current distribution of invasive weeds while writing the IAVMP. In addition to Eurasian milfoil, other invasive weeds such as Brazilian elodea, purple loosestrife and narrow leaf cattail will be mapped if found. These surveys will provide a current, complete list and map of problematic weeds, ensuring a comprehensive and effective management plan.

## 2. SCOPE OF WORK

Provide a scope of work for your project. List the tasks that you will undertake to complete the project, including details. For example, if education is a component of the project, when describing that task, say "we will produce and distribute two educational newsletters to the Lake X residents. In addition, we will hold at least one public meeting to talk about the project, etc." Describe how the project goals will be achieved. Discuss specific methods to be used or describe how the project will be accomplished.

*Task 1 is standard for all grant projects. Follow the format provided below for the additional tasks in your scope of work :*

### **Task 1- Project Administration/Management:**

- A. The RECIPIENT will administer and manage the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement and technical service agreement requirements; attainment of all required permits, licenses, easements, or property rights necessary for the project; conducting, coordinating, and scheduling of all project activities; quality control; and submittal of required performance items.
- B. The RECIPIENT will ensure that every effort is made to maintain effective communication with the RECIPIENT's designees, the DEPARTMENT, all affected local, state, or federal jurisdictions, and any interested individuals or groups. The RECIPIENT will carry out this project in accordance with completion dates outlined in this Agreement.
- C. The RECIPIENT shall submit all invoice requests and supportive documentation to the Financial Manager of the DEPARTMENT.

#### Required Performance:

- 1. Effective administration and management of this grant project.
- 2. Maintenance of all project records.
- 3. Submittal of all required performance items, including the Post Project Assessment Plan, progress reports, financial vouchers, and maintenance of all project records.

Total Task Cost \$ 2,808.00

### **Task 2: Problem Assessment and Preferred Option**

- A. The RECIPIENT will research and report on information regarding Lake Sawyer including but not limited to: community make-up and history, watershed and waterbody characteristics; fish and wildlife communities; beneficial and recreational uses of the waterbody and surrounding areas; and characterization of aquatic plants present in the waterbody.

- B. The RECIPIENT shall research and report on aquatic plant control alternatives. This shall include but not be limited to: project management goals; overview and discussion of the various aquatic plant control methods available; and the advantages, disadvantages, necessary permits, costs, considerations and appropriateness for each method researched.
- C. Based upon literature reviews and research the RECIPIENT shall determine the preferred method of control for Eurasian watermilfoil, yellow flag iris and fragrant water lily in Lake Sawyer. Methods to control other invasive, noxious weeds will be included based on what is discovered in surveys. This will include a preferred option plan for all weeds containing a timeline, preferred control method, budget, public input and funding.

Required Performance:

1. Research of all existing information for the physical characteristics of Lake Sawyer and its surrounding watershed.
2. Research all existing treatment methods for *M. spicatum* and the associated details for each method.
3. Determine the preferred treatment option for Lake Sawyer based on findings.
4. Include all research results and findings in a document entitled Lake Sawyer Integrated Aquatic Vegetation Management Plan.
5. Submit Lake Sawyer LAVMP to the DEPARTMENT for approval by December 2014.

Total Task Cost \$ 14,974

**Task 3: Survey and Mapping**

- A. The RECIPIENT shall map the locations of the Eurasian watermilfoil in Lake Sawyer. This will include a two day survey effort in the late summer/early fall of 2012 and 2013 by the RECIPIENT. This survey will help determine the extent of the milfoil infestation and other plants present that might have a bearing on chosen method of treatment.
- B. The RECIPIENT shall map the locations of any other noxious, invasive weeds in or around Lake Sawyer. This will be part of the two day survey effort for milfoil in the late summer/early fall of 2012 and 2013 by the RECIPIENT. This survey will help determine the extent of the invasive weed infestation present that might have a bearing on chosen method of treatment
- C. If deemed necessary based on the visual survey done by the RECIPIENT, a contractor may be hired to perform a dive survey to further locate plant populations in the lake.

Required Performance

1. Use GPS to locate all *M. spicatum* populations and other invasive weeds during surveys.
2. Using GPS information, generate a location map with ArcView to be included in the LAVMP.

Total Task Cost \$ 10,110

**Task 4: Public Outreach**

- A. The RECIPIENT shall hold a minimum of two public meetings for the shoreline property owners and area residents at the beginning of the draft LAVMP effort to alert residents about the effort and

methods being considered to achieve the goals of aquatic weed management.

- B. In these first meetings an advisory committee of interested stakeholders will be established and may include local jurisdictions, area residents and community groups. The advisory committee will provide feedback on the IAVMP to the City of Black Diamond for consideration.
- C. A minimum of two further meetings will be held after completion of the Draft IAVMP for comments.
- D. Design and print any necessary materials to educate the Lake Sawyer community about the noxious weeds present in the lake and the IAVMP process.

**Required Performance**

- 1. Form an advisory committee of interested parties to review and comment on the Draft IAVMP.
- 2. Hold a minimum of four public meetings for the public. Two will be done prior to the completion of the Lake Sawyer Draft Integrated Aquatic Vegetation Management Plan and two will be held upon completion of the draft report in December 2014. Other meetings will be held as necessary both with the public and advisory committee depending on the needs of the project.
- 3. Solicit and respond to all comments for the Lake Sawyer IAVMP.
- 4. Design and print any materials deemed necessary to help educate the public about the noxious weeds and IAVMP process at Lake Sawyer.

**Total Task Cost \$ 11,892**

**1. PROPOSED BUDGET**

Please provide a budget, using one of the following formats. Provide the total cost of the project, not just the state share.

**Budget by Task**

Task 1 – Project Management	\$ 2,808.
Task 2 – Problem Assessment and Preferred Option	\$ 14,974
Task 3 – Survey and Mapping	\$ 10,110
Task 4 – Public Outreach	\$ 12,042
<b>Total</b>	<b>\$ 39,934</b>

-- OR --

**Budget by Budget Object**

Salaries, wages, and benefits (SWB): \$ \_\_\_\_\_

Indirect cost up to 25% of SWB:	\$ _____
Material, supplies	\$ _____
Equipment	\$ _____
Contracts	\$ _____
Other	\$ _____
In-kind contributions	\$ _____
<b>Total</b>	<b>\$ _____</b>

### 3. WATER QUALITY AND PUBLIC HEALTH IMPROVEMENTS

At a minimum, your response should answer these questions:

- Do the plants in this water body pose a threat of infestation to other nearby water bodies? *Include a map of the targeted water body with your application.*
- How is this aquatic plant or plants affecting the targeted water body or water bodies? What is the potential of the plant to impact the targeted water body or water bodies, and how will this project benefit the public?
- What are the project goals? What will you accomplish by undertaking this project?
- Does this project have statewide or regional significance?

Eurasian watermilfoil (*Myriophyllum spicatum*) is a submersed aquatic noxious weed that proliferates, forming dense mats of vegetation in the littoral zone of lakes and reservoirs. It reproduces by fragmentation and is often spread as fragments that "hitch-hike" on boat trailers from one lake to another. This noxious weed can degrade the ecological integrity of a water body in just a few growing seasons. Dense stands of milfoil crowd out native aquatic vegetation, which alter predator-prey relationships among fish and other aquatic animals. *M. spicatum* can also reduce dissolved oxygen – first by inhibiting water mixing in areas where it grows, and then as oxygen is consumed by bacteria during decomposition of dead plant material. Decomposition of *M. spicatum* also adds nutrients to the water that could contribute to increased algal growth and related water quality problems. Further, dense mats of *M. spicatum* can increase the water temperature by absorbing sunlight, create mosquito breeding areas, and negatively affect recreational activities such as swimming, fishing, and boating.

Fragrant waterlily (*Nymphaea odorata*) is a problematic weed that when left uncontrolled can form dense monospecific stands that persist until senescence in the fall. Mats of these floating leaves prevent wind mixing and create extensive areas of low oxygen under the water lily beds in the summer. Water lilies can restrict lakefront access and hinder swimming, boating, and other recreational activity. They may also limit Washington's native water lily (*Nuphar luteum*) as they overlap in distribution. As patches of lily connect, recreational activities such as boating, fishing, and swimming will become more difficult. Even canoes can have great difficulty moving across dense floating mats of fragrant water lily, not to mention entanglement

with propellers of boat motors. Lily stands can also hide milfoil beneath the floating mats, making milfoil control difficult and less effective.

Yellow flag iris can spread by rhizomes and typically forms dense stands that can exclude even the toughest of the native wetland species, such as *Typha latifolia* (cattail). Iris has already colonized large portions of the Lake Sawyer shoreline and threatens to disperse further if not controlled. In addition to lowering plant diversity, this noxious weed can also alter hydrological dynamics through sediment accretion along the shoreline. This species produces prolific seed that is easily transported downstream to invade other wetland areas.

Milfoil is the weed of greatest concern in the Lake Sawyer because of its proximity to the popular highways 169 and 18. Boats are trailered in and out of the lake and may continue on to other nearby lakes such as Pipe and Lucerne Lakes, Spring Lake, and Lake Wilderness. Eurasian watermilfoil has been eradicated from both Pipe and Lucerne Lakes and is currently being managed on Lake Wilderness and Spring Lake.

Reintroduction of *M. spicatum* to these waterbodies would detrimentally affect the work that has been ongoing in these lakes. It is important to write a Lake Sawyer IAVMP to create a comprehensive management strategy that will target the the noxious weed infestations in the lake and give the City of Black Diamond the opportunity to act quickly on the chosen management method to prevent further spreading of milfoil to nearby lakes.

In addition to writing a plan that includes the three main invasive weeds at Lake Sawyer, the surveys will also search for other possible noxious weeds such as purple loosestrife, brazilian elodea and narrow leaf cattail that could be in early colonization phases.

The goals of the creation of an IVAMP for Lake Sawyer are:

- 1) Fully assess and map the extent of the Eurasian watermilfoil infestation and other invasive weeds in Lake Sawyer.
- 2) Write a comprehensive plan that researches all available methods and costs for noxious, invasive aquatic weed removal. This document will also serve as a guide for the city of Black Diamond to make decisions and help guide other potential projects dealing with invasive aquatic weed removal.
- 3) Select an appropriate preferred treatment option for Lake Sawyer based on the noxious weeds found and create a comprehensive management plan around the selected treatment option.
- 4) Work with the Lake Sawyer property owners and other interested parties to educate them on the problem, include them in the discussion, and ask for feedback on the Draft Integrated Aquatic Vegetation Management Plan for Lake Sawyer.
- 5) Produce an IAVMP for the DEPARTMENT for approval.

The Lake Sawyer IAVMP project is a logical step in trying to combat the Eurasian milfoil problem in the lake and the region. It will allow for proper planning and research in trying to find the best milfoil management option. *M. spicatum*, *nymphaea odorata* and *iris pseudocora* are the three most problematic invasive, noxious weeds in Lake Sawyer. Because the lake has an enormous amount of boat traffic and public recreation, the proper management of these weeds would benefit the ecosystem, the citizens who use the lake for recreation, and the other regional lakes that are easily accessed by boaters visiting multiple lakes in a day.

#### 4. PROJECT TEAM

Please list the key people who will make this project a success. List the people who will actually lead or work on the project. Note their commitment to the project and any special skills they bring.

Beth leDoux, Water Quality Planner, King County: Ms. leDoux has been with King County Department of Natural Resources and Parks since 2003. She received a BA from Western Washington University in Environmental Studies and MEM from Yale University in watershed science. Her current work program includes the Hydrilla Eradication project on Pipe and Lucerne Lakes as well as Eurasian watermilfoil control project on Bass Lake. She is a licensed herbicide applicator and has been working on noxious, invasive aquatic weeds since 2003. In this project Ms. leDoux will be researching and writing the IAVMP, leading the field surveys and helping to host the public meetings.

Sally Abella, Freshwater Program group lead at King County: Ms. Abella managed the Lake Stewardship Program Manager from 2001 to 2011. Prior to that, she was a Research Scientist specializing in freshwater ecology at the University of Washington from which she received a BS in Geological Sciences and advanced degrees in Zoology and Botany. Ms. Abella will provide technical and editing support for the document and will participate in the public meetings.

Chris Knutson, Water Quality Planner, King County. Mr. Knutson has been with the King County Department of Natural Resources and Parks since 2009. He received his BA from Western Washington University in Environmental Studies. His current work program includes working on the volunteer monitoring program on the small lakes of King County, benthos sampling, fecal coliform studies and field surveys for noxious weeds. Mr. Knutson will help with writing and reviewing the IAVMP, helping on field surveys and participating in the public meetings.

Aaron Nix is a Parks/Natural Resources Director for the City of Black Diamond. He is a graduate of the Evergreen State College and Seattle University with degrees in Environmental Science and Public Administration respectively. Mr. Nix brings a tremendous amount of experience in state grant project management and aquatic management issues. Mr. Nix will be project manager of this project and be involved in all aspects of the project.

## **5. PROJECT DEVELOPMENT AND LOCAL SUPPORT**

At a minimum, your response should answer these questions:

- Do you have local citizen support for the project--especially support of those citizens who live on, use, or have an interest in managing the aquatic plants in the targeted water body?
- What is your long-term commitment to this project? Are you prepared to continue implementation of long-term objectives without grant support?

The City of Black Diamond is committed to managing the project and providing the 25% match for this grant if awarded. Black Diamond has a vested interest as this lake is in their stewardship and the City owns a large portion of the south end of the lake in park land and the boat launch. Black Diamond is highly motivated to keep this lake free of noxious, invasive aquatic and terrestrial weeds.

There are many property owners along the shores of Lake Sawyer, and there is a very active community group that is involved in all different aspects of lake stewardship. While outreach has not occurred yet at this point for the IAVMP work, the community is well aware of the weed problem and participates in the King

County Weed Watcher and Lake Stewardship program. Meetings will be held throughout the LAVMP writing to get the community to understand and support the LAVMP goal and strategies prior to being submitted to the DEPARTMENT for approval.

As resources allow, the City of Black Diamond will continue with the recommendations and weed control methods offered by the LAVMP.

*To ask about the availability of this document in a version for the visually impaired call the Water Quality Program at 360-407-6502. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.*



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

COMMUNITY DEVELOP.

March 1, 2012

MAR 07 2012

RECEIVED

The Honorable Rebecca Olness, Mayor  
City of Black Diamond  
P.O. Box 599  
Black Diamond, WA 98010

**Re: Aquatic Weeds Management Fund  
FY 2013 Funding Cycle  
Lake Sawyer Integrated Aquatic Vegetation AWMF Management Plan - App. #1307**

Dear Mayor Olness:

I am pleased to inform you that the Department of Ecology (Ecology) is offering up to \$25,000 to the City of Black Diamond for the Lake Sawyer Integrated Aquatic Vegetation Management Plan (IAVMP). These funds are from the Aquatic Weeds Management Fund (AWMF).

Enclosed is the AWMF Final Offer and Applicant List (Offer List). The Offer List provides the priority of projects and estimated funding for each project.

Ecology has assigned the following Project Manager for your project:

Lizbeth Seebacher      Headquarters Office, Lacey      Project Manager      360-407-6938

Lizbeth will contact you soon to schedule a negotiation date. Ecology is committed to negotiating and signing a funding agreement by June 30, 2012. To meet this timeline, it is essential that negotiations and funding agreement development begin as soon as possible. Special grant conditions may also be required to ensure that your project is consistent with applicable state and federal laws and program requirements.

**Be aware that costs incurred before the date of the Water Quality Program Manager's signature on the agreement, are not eligible for reimbursement.**

We appreciate your commitment to improving Washington's water quality and look forward to working with you to make your project a success.

If you have any questions, please contact Lizbeth Seebacher at 360-407-6938 or [lsee461@ecy.wa.gov](mailto:lsee461@ecy.wa.gov).

Sincerely,

Kelly Susewind, P.E., P.G.  
Water Quality Program Manager

Enclosure

cc: Aaron Nix, City of Black Diamond  
Lizbeth Seebacher, Ecology FMS/HQ





**AQUATIC WEEDS MANAGEMENT FUND  
GRANT AGREEMENT  
BETWEEN THE  
STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND  
CITY OF BLACK DIAMOND**

THIS is a binding agreement entered into, by, and between the state of Washington Department of Ecology [DEPARTMENT] and City of Black Diamond [RECIPIENT]. The purpose of this agreement is to provide funds to the RECIPIENT to carry out the activities described herein.

**PART I. GENERAL INFORMATION**

Project Title: **Lake Sawyer Integrated Aquatic Vegetation Management Plan**

Grant Number: **G1200433**

**A. RECIPIENT Information**

RECIPIENT Name and Address **City of Black Diamond  
Rebecca Olness, Mayor  
P.O. Box 599  
Black Diamond, Washington 98010**

RECIPIENT Contact **Aaron Nix**  
Telephone Number: **(360) 886-2560 x220**  
Fax Number: **(360) 886-2592**  
E-mail Address: **anix@ci.blackdiamond.wa.us**

RECIPIENT Billing Contact **Tracey Redd**  
Telephone Number: **(360) 886-5700**  
Fax Number: **(360) 886-2592**  
E-mail Address: **tredd@ci.blackdiamond.wa.us**

RECIPIENT Federal ID Number: **91-6026204**

**B. DEPARTMENT Information**

DEPARTMENT Address: **Water Quality Program  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600**

DEPARTMENT Project Manager: **Lizbeth Seebacher**  
Telephone Number: **(360) 407-6938**

Fax Number: (360) 407-7151  
E-mail Address: [Lizbeth.Seebacher@ecy.wa.gov](mailto:Lizbeth.Seebacher@ecy.wa.gov)

DEPARTMENT Funding Source: **Aquatic Weeds Management Fund**

DEPARTMENT Share: **\$ 25,000**  
RECIPIENT Share: **\$ 14,934**  
Total PROJECT Cost: **\$ 39,934**

DEPARTMENT Maximum Percentage: **The DEPARTMENT will reimburse eligible costs at 75 % up to the maximum DEPARTMENT share shown.**

The effective date of this agreement will be the date this agreement is signed by the DEPARTMENT's Water Quality Program Manager. Any work performed prior to the effective date of this agreement will be at the sole expense and risk of the RECIPIENT.

This agreement will expire no later than December 31, 2014.

## **PART II. POST PROJECT ASSESSMENT**

The RECIPIENT agrees to submit a brief survey regarding the key project results or aquatic plant management outcomes and the status of environmental results or goals from the project three years after project completion.

The DEPARTMENT's Water Quality Program Performance Measures Lead will contact the RECIPIENT before the Post Project Assessment date to request this data.

The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the Project, as part of this assessment.

Post Project Assessment Date: December 31, 2016.

Aquatic plant management project outcomes to be evaluated at the Post Assessment include:

- a) All physical characteristics of Lake Sawyer and surrounding watershed will be researched and added to the IAVMP.
- b) The invasive aquatic and emergent species in Lake Sawyer will be surveyed and mapped.
- c) The preferred treatment options for each species will be determined and added to the IAVMP.
- d) Four public meetings will be held educating the public about the IAVMP.
- e) An Integrated Aquatic Vegetation Management Plan will be submitted to Ecology.

### **PART III. PROJECT DESCRIPTION**

An Integrated Aquatic Vegetation Management Plan (IAVMP) is necessary in order to have a strategic plan for dealing with the several noxious weeds in and around Lake Sawyer. The RECIPIENT will survey the lake for current distribution of invasive weeds while writing the IAVMP. In addition to Eurasian milfoil, other invasive weeds such as Brazilian elodea, purple loosestrife and narrow leaf cattail will be mapped if found. These surveys will provide a current, complete list and map of problematic weeds, ensuring a comprehensive and effective management plan.

### **PART IV. PROJECT BUDGET**

Project Title: Lake Sawyer IAVMP			
TASKS	TOTAL ELIGIBLE COST (TEC)		
	FY1	FY2	Totals
Task 1. Project Management	\$2,808		\$2,808
Task 2. Lake Assessment	\$14,974		\$14,974
Task 3. Survey & Mapping	\$10,110		\$10,110
Task 4. Public Outreach	\$12,042		\$12,042
<b>Total*</b>	<b>\$39,934</b>		<b>\$39,934</b>
* The DEPARTMENT's Fiscal Office will track to the Total Eligible Project Cost.			
<b>MATCHING REQUIREMENTS</b>			
<b>DEPARTMENT Share</b>	\$25,000		\$25,000
<b>RECIPIENT Share</b> Eligible costs may consist of any combination of Cash, Interlocal, or In-kind contributions.	\$14,934		\$14,934
Adjustments to budget numbers between fiscal years must be approved by Ecology's project manager and are subject to funding availability.			

1. Payment Request Submittals: Payment requests will not be submitted more often than monthly, unless allowed by the DEPARTMENT's Project Manager. The DEPARTMENT's Project Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.
2. Payment Schedule: Payments will be made on a cost reimbursable basis.

## **PART V. SCOPE OF WORK**

### **Task 1 - Project Administration/Management**

- A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; attainment of all required permits, licenses, easements of property rights necessary for the project; and submittal of required performance items.
- B. The RECIPIENT will manage the project. Efforts will include conducting, coordinating, and scheduling of project activities, and assuring quality control. The RECIPIENT will make every effort to maintain effective communication with the RECIPIENT's designees, the DEPARTMENT, all affected local, state, or federal jurisdictions, and any interested individuals or groups. The RECIPIENT will carry out this project in accordance with any completion dates outlined in this Agreement.
- C. The RECIPIENT will submit all invoice vouchers, correspondence, and project documents, to the DEPARTMENT Project Manager. Invoice voucher submittals will include a state of Washington Invoice Voucher Form A19-1A, the appropriate B and C forms as described in the current edition of *Administrative Requirements for Ecology Grants and Loans*, and Form D (when applicable). Copies of all applicable forms will be included with an original A19-1A form, and will be submitted to the DEPARTMENT. Blank forms are found in the current edition of *Administrative Requirements for Ecology Grants and Loans* or electronic forms can be obtained from the Project Manager.

Reimbursements from the DEPARTMENT for invoice voucher submittals will be mailed to the RECIPIENT's designee at the following address:

Aaron Nix, Parks / Natural Resources Director  
P.O. Box 599  
Black Diamond, Washington 98010

- D. The RECIPIENT will submit to the DEPARTMENT the following documents and in the quantities identified:
- Draft IAVMP – electronic copy
  - Final IAVMP – electronic copy and two hard copies

The RECIPIENT will submit two copies of any document(s) that require DEPARTMENT approval.

- E. Required Performance:

1. Effective administration and management of this grant project.

2. Maintenance of all project records.
3. Submittal of all required performance items, progress reports, financial vouchers, and maintenance of all project records.

**Task 2 – Assessment and Preferred Option**

- A. The RECIPIENT will contract with a qualified aquatic plant management consultant, King County aquatic plant management personnel and/or use its own staff, to develop an Integrated Aquatic Vegetation Management Plan (IAVMP) that incorporates all the requirements for an IAVMP listed in the DEPARTMENT's Aquatic Weeds Management Fund program guidelines. The RECIPIENT, with input from interested residents and other members of the steering committee, will use *A Citizen's Manual for Developing Integrated Aquatic Vegetation Management Plans* to develop the IAVMP. This manual is available at:  
<http://www.ecy.wa.gov/programs/wq/plants/management/manual/index.html>.
- B. The RECIPIENT will research and report on information regarding Lake Sawyer including but not limited to: community make-up and history, watershed and waterbody characteristics; fish and wildlife communities; beneficial and recreational uses of the waterbody and surrounding areas; and characterization of aquatic plants present in the waterbody.
- C. Based upon literature reviews and research, the RECIPIENT will determine the preferred method of control for Eurasian watermilfoil, yellow flag iris and fragrant water lily in Lake Sawyer. The RECIPIENT will include methods to control other invasive, noxious weeds based on what is discovered in surveys. The RECIPIENT will identify a preferred option plan for all weeds containing a timeline, preferred control method, budget, public input and funding.
- D. If herbicide treatment is planned as part of the IAVMP, the RECIPIENT will address water right issues during the planning process. The RECIPIENT will attempt to identify those residents holding water rights on affected waters. In addition, the RECIPIENT will address human health and environmental concerns about herbicide use prior to its inclusion in the IAVMP.
- E. The RECIPIENT will submit the draft IAVMP to the DEPARTMENT no less than 30 days before the project completion date. Following this review, the RECIPIENT will prepare and submit to the DEPARTMENT a final IAVMP incorporating review comments. The DEPARTMENT recommends that the RECIPIENT submit the final plan through the State Environmental Policy Act (SEPA) process.
- F. Required Performance:
  1. The development of an IAVMP that meets the minimum standards for an IAVMP as set out in the Aquatic Weeds Grant Guidelines.

2. Research of all existing information for the physical characteristics of Lake Sawyer and its surrounding watershed.
3. Research all existing treatment methods for *M. spicatum* and the associated details for each method.
4. Determine the preferred treatment option for Lake Sawyer based on findings.
5. Include all research results and findings in a document entitled Lake Sawyer Integrated Aquatic Vegetation Management Plan.
6. Submittal of the draft IAVMP to the DEPARTMENT for review and comment.
7. Revision of the draft IAVMP according to comments received from the DEPARTMENT.

### **Task 3 – Survey and Mapping**

- A. The RECIPIENT will survey and map the locations of the Eurasian watermilfoil and any other noxious invasive weeds in Lake Sawyer in the late summer/early fall of 2012 and 2013. These surveys will help determine the extent of the milfoil infestation and other plants present that might have a bearing on chosen method of treatment.
- B. Required Performance:
  1. Effectively survey and map Eurasian watermilfoil and other noxious weeds in Lake Sawyer.

### **Task 4 – Public Outreach**

- A. The RECIPIENT will hold a minimum of two public meetings for the shoreline property owners and area residents at the beginning of the draft IAVMP effort to alert residents about the effort and methods being considered to achieve the goals of aquatic weed management.
- B. In these first meetings, the RECIPIENT will establish an advisory committee of interested stakeholders. The advisory committee may include representatives from local jurisdictions, area residents, and community groups. The advisory committee will provide feedback on the IAVMP to the City of Black Diamond for consideration.
- C. The RECIPIENT will hold a minimum of two further meetings will be held completion of the Draft IAVMP for comments.
- D. The RECIPIENT will design and print any necessary materials to educate the Lake Sawyer community about the noxious weeds present in the lake and the IAVMP process. The RECIPIENT will do a regional search for existing material before producing any new educational flyers or pamphlets.
- E. Required Performance:

1. Form an advisory committee of interested parties to review and comment on the Draft IAVMP.
2. Hold a minimum of four public meetings. Two will be held prior to the completion of the Lake Sawyer Draft IAVMP and two will be held upon completion of the draft IAVMP.
3. Solicit and respond to all comments for the Lake Sawyer IAVMP.
4. Design and print any materials needed to help educate the public about the noxious weeds and IAVMP process at Lake Sawyer.

## **VI. SPECIAL TERMS AND CONDITIONS**

- A. Conflict of Interest. The company, associated company, contractor, corporation, or individual writing and/or guiding the steering committee through the assessment of plant control options during development of this IAVMP (integrated aquatic vegetation management plan) shall not be considered for implementation of these control measures under state-funded projects.
- B. Use of Force Account. In the event the RECIPIENT elects to use its own forces to accomplish eligible project work, the RECIPIENT acknowledges that it has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT must track and report the force account work submitted to the DEPARTMENT for reimbursement.
- C. Indirect Rate. The RECIPIENT may charge an indirect rate of up to 25 percent based on employee's direct salary and benefit costs incurred while conducting project-related work. The DEPARTMENT's Financial Manager may require a list of items included in the indirect rate at any time.
- D. Match Requirement. Property and services donated by organizations or individuals to accomplish grant requirements may be used as in-kind match. Donated property and services must comply with the DEPARTMENT's current edition of *Administrative Requirements for Ecology Grants and Loans* and the Aquatic Weeds Management Fund Grant Guidelines (<http://www.ecy.wa.gov/biblio/9452.html>). Documentation will be maintained by the RECIPIENT for all donated property and services and made available for review by the DEPARTMENT on request.

Interlocal Match. The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements are consistent with all of the following:

1. Terms of this grant agreement
2. The edition of *Administrative Requirements for Ecology Grants and Loans* that is effective at the signing of this agreement.

3. Chapter 39.34 RCW Interlocal Cooperation Act

All negotiated interlocal agreements will be consistent with the terms of this grant Agreement, the DEPARTMENT's current edition (at the signing of this agreement) of *Administrative Requirements for Ecology Grants and Loans* and Chapter 39.34 RCW Interlocal Cooperation Act. Upon request, the RECIPIENT will submit a copy of the final negotiated interlocal agreement(s) to the DEPARTMENT's Project Manager.

- E. Meeting/Light Refreshments. The RECIPIENT may spend up to \$75 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed \$75 unless authorized in writing by the Project Manager.
- F. Minority and Women's Business Participation. The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

The RECIPIENT will report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. Please include the following information:

1. Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
  2. The total dollar amount paid to qualified firms under this invoice.
- G. Procurement. The RECIPIENT may elect to use its own forces or may contract for professional services necessary to perform and complete project related work. The



RECIPIENT will ensure that this project is completed according to the details of this agreement. By signing this agreement, the RECIPIENT certifies that all applicable requirements have been satisfied in the procurement of any professional services. Upon request, the RECIPIENT will submit a copy of the final negotiated agreement(s) to the DEPARTMENT's Project Manager.

- H. Progress Reports. The RECIPIENT will submit semi-annual Progress Reports to the DEPARTMENT's Project Manager. Progress Reports for January 1 through June 30 are due July 15. Progress Reports for July 1 through December 31 are due January 15. Payment requests will not be processed if the required Progress Reports have not been submitted by the RECIPIENT.
- I. Time for Performance. In the event that the RECIPIENT fails to commence work on the PROJECT within four months after the effective date of this agreement, the DEPARTMENT reserves the right to terminate this agreement.

**VII. ALL WRITINGS CONTAINED HEREIN**

This Agreement, the appended General Terms and Conditions, the DEPARTMENT's current edition of *Administrative Requirements for Ecology Grants and Loans*, and the Aquatic Weeds Management Fund Grant Guidelines contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless signed by authorized representatives of the RECIPIENT and the DEPARTMENT and made a part of this Agreement, EXCEPT, that in response to a request from the RECIPIENT; the DEPARTMENT may change the grant expiration date. The DEPARTMENT or RECIPIENT may change their respective staff contacts without the concurrence of either party.

IN WITNESS WHEREOF, the parties sign this Grant:

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

CITY OF BLACK DIAMOND

\_\_\_\_\_  
KELLY SUSEWIND, P.E., P.G.      DATE  
WATER QUALITY PROGRAM MANAGER

\_\_\_\_\_  
REBECCA OLNESS      DATE  
MAYOR

APPROVED AS TO FORM ONLY  
ASSISTANT ATTORNEY GENERAL

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b>  <b>Resolution No. 12-797, authorizing certain designated officials the authority to sign FEMA paperwork</b>	<b>Agenda Date: May 3, 2012</b>	
	<b>AB12-025</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	<b>X</b>
Cost Impact: 0	Police – Jamey Kiblinger	
Fund Source: 0	Court – Stephanie Metcalf	
Timeline: May 2012	Comm. Dev. – Steve Pilcher	
<b>Attachments: Resolution No.12-797; Signature Authorization Form</b>		
<b>SUMMARY STATEMENT:</b>  <p>The City of Black Diamond experienced a severe ice storm in mid January. On March 5<sup>th</sup> the President of the United States declared the January 14 – 23, 2012 Severe Winter Storm in the northwest an emergency allowing for Federal Emergency Management Agency to provide assistance to local communities. A Public Assistance Grant is available for the City to recover emergency response costs, clean-up costs and repair and replacement costs.</p> <p>The federal government and the Washington State Emergency Management Agency require that the City staff designate signature authority to anyone responsible for approving FEMA paperwork by resolution.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-797, authorizing Seth Boettcher, May Miller and Scott Hanis to sign Public Assistance grant agreement forms and project implementation paperwork for the FEMA-4056 DR-WA-Severe Winter Storm Event.</b>		
<b>RECORD OF COUNCIL ACTION</b>		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 3, 2012		

**RESOLUTION NO. 12-797**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
DESIGNATING VARIOUS STAFF THE AUTHORITY  
TO SIGN FEMA FUNDING DOCUMENTS**

**WHEREAS**, the President of the United States has declared a disaster for the January 14 – 23, 2012 Severe Winter Storm event; and

**WHEREAS**, the City of Black Diamond is eligible for reimbursement and cost recovery for various expenses related to the January 14 – 23 Severe Winter Storm event; and

**WHEREAS**, the federal and/or state emergency or disaster assistance agencies require representatives of the City of Black Diamond be authorized by resolution to execute all contracts, certify completion of projects, request payment and prepare all required documentation for funding requirements;

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

**Section 1.** Seth Boettcher, Public Works Director, May Miller, Finance Director, and Scott Hanis, Public Works Administrative Assistant 3 are hereby authorized and designated to sign all contracts, certify completion of projects, request payment and prepare all required documentation of the funding requirements for the Public Assistance grant D12-086 for the Presidential Disaster Declaration #FEMA – 4056-DR-WA- Severe Winter Storm event.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3RD DAY OF MAY, 2012.**

CITY OF BLACK DIAMOND:

---

Rebecca Olness, Mayor

Attest:

---

Brenda L. Martinez, City Clerk

# SIGNATURE AUTHORIZATION FORM

WASHINGTON STATE MILITARY DEPARTMENT  
Camp Murray, Washington 98430-5122

*Please read instructions on reverse side before completing this form.*

NAME OF ORGANIZATION City of Black Diamond	DATE SUBMITTED
PROJECT DESCRIPTION Public Assistance Program, Disaster 4056-DR-WA	CONTRACT NUMBER D12-086

## 1. AUTHORIZING AUTHORITY

SIGNATURE	PRINT OR TYPE NAME	TITLE/TERM OF OFFICE

## 2. OTHER INDIVIDUALS AUTHORIZED TO SIGN CONTRACTS/CONTRACT AMENDMENTS

SIGNATURE	PRINT OR TYPE NAME	TITLE
	Seth Boettcher	Public Works Director
	Scott Hanis	Public Works Administrative Assistant 3
	May Miller	Finance Director

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION																		
<b>SUBJECT:</b> <b>Resolution No. 12-798, authoring the Mayor to execute the FEMA Grant Agreement for Jan 2012 Severe Winter Storm Event</b>	<b>Agenda Date: May 3, 2012</b>																	
	<b>AB12-026</b>																	
	Department/Committee/Individual																	
	Mayor Rebecca Olness																	
	City Administrator –																	
	City Attorney –Chris Bacha																	
	City Clerk – Brenda L. Martinez																	
	Finance – May Miller																	
	Public Works – Seth Boettcher																	
Cost Impact: Unanticipated revenue - \$87,750	Economic Devel. – Andy Williamson	<b>X</b>																
Fund Source: Streets, Parks, Water Dept.	Police – Jamey Kiblinger																	
Timeline: 2012	Court – Stephanie Metcalf																	
	Comm. Dev. – Steve Pilcher																	
<b>Attachments: Resolution No. 12-798, Grant Agreement</b>																		
<p><b>SUMMARY STATEMENT:</b></p> <p>The City of Black Diamond experienced a severe ice storm in mid January. The time frame of the Presidential Declaration of a Severe Winter Storm from January 14 - 23, 2012. A Public Assistance Grant is available for the City to recover emergency response costs, clean up costs and repair and replacement costs. The City may also recover administrative costs for these recovery projects as well.</p> <p>The Federal Emergency Management Agency will reimburse the city for costs incurred at 75%. The state Emergency Mangement Agency may also provide another 12% match of further assistance. At this time it is not known if the state will be able to come up with the additional assistance.</p> <p>The following is the current summary of the expected reimburseable costs. These amounts are subject to change.</p> <table> <tbody> <tr> <td>Project 1 - Debris Cleanup</td> <td>\$ 63,000</td> </tr> <tr> <td>Project 2 - Generators/Springs Boulder</td> <td>\$ 9,000</td> </tr> <tr> <td>Project 4 - Police Station Generator</td> <td>\$ 30,000</td> </tr> <tr> <td>Project 5 - Fence Repairs</td> <td>\$ 8,000</td> </tr> <tr> <td>Project 6 - Gutters, Swinging Bridge</td> <td>\$ 2,000</td> </tr> <tr> <td>Project 7 - Power Lines</td> <td>\$ 5,000</td> </tr> <tr> <td><b>APPROX. TOTAL:</b></td> <td><b>\$117,000</b></td> </tr> <tr> <td><b>FEMA REIMBURSEMENT @ 75%:</b></td> <td><b>\$ 87,750</b></td> </tr> </tbody> </table>			Project 1 - Debris Cleanup	\$ 63,000	Project 2 - Generators/Springs Boulder	\$ 9,000	Project 4 - Police Station Generator	\$ 30,000	Project 5 - Fence Repairs	\$ 8,000	Project 6 - Gutters, Swinging Bridge	\$ 2,000	Project 7 - Power Lines	\$ 5,000	<b>APPROX. TOTAL:</b>	<b>\$117,000</b>	<b>FEMA REIMBURSEMENT @ 75%:</b>	<b>\$ 87,750</b>
Project 1 - Debris Cleanup	\$ 63,000																	
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Project 7 - Power Lines	\$ 5,000																	
<b>APPROX. TOTAL:</b>	<b>\$117,000</b>																	
<b>FEMA REIMBURSEMENT @ 75%:</b>	<b>\$ 87,750</b>																	
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>																		
<p><b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-798, approving the Mayor to sign the Public Assistance Grant Agreement with the Washington State Military Department for reimbursement of a portion of the City's costs in responding to the January 14 – 23, 2012 Severe Winter Storm Event.</b></p>																		
<b>RECORD OF COUNCIL ACTION</b>																		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>																
May 3, 2012																		

**RESOLUTION NO. 12-798**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
APPROVING A WASHINGTON STATE MILITARY  
DEPARTMENT PUBLIC ASSISTANCE GRANT**

**WHEREAS**, The President of the United States has declared a disaster for the January 14 – 23, 2012 Severe Winter Storm event; and

**WHEREAS**, The City of Black Diamond is eligible for reimbursement and cost recovery for various expenses related to the January 14 – 23 Severe Winter Storm event; and

**WHEREAS**, the Washington State Military Department administers and distributes the Federal Emergency Management Agency funding to the local agency; and

**WHEREAS**, The Federal Emergency Management Agency will reimburse the City for costs in responding to the January 2012 Severe Winter Storm event at 75% and Washington State may contribute an additional 12.5% reimbursement under the same grant 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 sign the Public Assistance Grant Agreement with the Washington State Military Department for partial cost reimbursement for the January 2012 Severe Winter Storm Event 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 3<sup>RD</sup> DAY OF MAY, 2012.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Rebecca Olness, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Martinez, City Clerk

**Washington State Military Department  
PUBLIC ASSISTANCE GRANT AGREEMENT FACE SHEET**

1. Applicant Name and Address: <b>City of Black Diamond 24301 Roberts Drive Black Diamond, WA 98010-0599</b>		2. Total Project Amount: <b>To be determined, based upon approved project worksheets</b>		3. Grant Number: <b>D12-086</b>	
4. Applicant Agent, phone number    Seth Boettcher, 360-886-2592		5. Grant Start Date: <i>March 5, 2012</i>		6. Grant End Date: <i>March 5, 2016</i>	
7. MD Program Manager/phone number: <b>Gerard Urbas, (253) 512-7402</b>		8. Data Universal Numbering System (DUNS): 195690011		9. UBI # (state revenue):	
10. Funding Authority: <b>Washington State Military Department (the "DEPARTMENT"), and Federal Emergency Management Agency (FEMA)</b>					
11. Funding Source Agreement #: <b>FEMA-4056-DR-WA</b>		12. Program Index # <b>724AC / 722AE 724AD</b>		13. Catalog of Federal Domestic Asst. (CFDA) # & Title: <b>97.036, Public Assistance</b>	
14. TIN or SSN: <b>91-_____</b>					
15. Service Districts: (BY LEGISLATIVE DISTRICT): _____th (BY CONGRESSIONAL DISTRICT): _____th		16. Service Area by County(ies): <b>King County</b>		17. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____	
18. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Collaborative Research <input type="checkbox"/> A/E <input type="checkbox"/> Other _____			19. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency		
20. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO _____			21. Contractor Type (check all that apply): <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input type="checkbox"/> SUBRECIPIENT <input checked="" type="checkbox"/> OTHER		
22. BRIEF DESCRIPTION: <b>Presidential Disaster Declaration # FEMA-4056-DR-WA—Severe Winter Storm Flooding, Landslide and Mudslides: To provide funds to the Applicant for the repair or restoration of damaged public facilities as approved by FEMA in project worksheets describing eligible scopes of work and associated funding, which are incorporated herein by this reference.</b>					
IN WITNESS WHEREOF, the Department and Applicant acknowledge and accept the terms of this Grant Agreement, exhibits, references and attachments hereto and have executed this Grant Agreement as of the date and year written below. This Grant Agreement Face Sheet, Special Terms and Conditions, General Terms and Conditions, Federal and State Requirements and Assurances, and any other attachments or references govern the rights and obligations of both parties to this Grant Agreement.					
In the event of an inconsistency in this Grant Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:					
<ol style="list-style-type: none"> <li>1. <b>Applicable Federal and State Statutes and Regulations</b></li> <li>2. <b>Statement of Work and/or Project Description as outlined in FEMA approved Project Worksheet(s)</b></li> <li>3. <b>Special Terms and Conditions</b></li> <li>4. <b>General Terms and Conditions, and,</b></li> <li>5. <b>Other provisions of the contract incorporated by reference.</b></li> </ol>					
This Grant Agreement, including all attachments, contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant Agreement shall be deemed to exist or to bind any of the parties hereto.					
WHEREAS, the parties hereto have executed this Grant Agreement on the day and year last specified below.					
FOR THE DEPARTMENT:			FOR THE APPLICANT:		
Signature _____ Date _____ James M. Mullen, Director Emergency Management Division Washington State Military Department			Signature _____ Date _____ print or type name: _____		
APPROVED AS TO FORM:			APPROVED AS TO FORM:		
Chad C. Standifer, (Signature on file) 3/14/2011 Assistant Attorney General			Applicant's Legal Review _____ Date _____		



## **SPECIAL TERMS AND CONDITIONS**

### **ARTICLE I – COMPENSATION SCHEDULE**

#### **1. FUNDING**

The DEPARTMENT will administer the Public Assistance Grant Program and reimburse approved eligible Public Assistance costs to the APPLICANT that are identified under the auspices of Presidential Disaster Declaration Number FEMA-4056-DR-WA and authorized by and consistent with the Stafford Act (P.L. 93-288, as amended) and applicable regulations. It is understood that no final dollar figure is committed to at the time that this Grant Agreement is executed, but that financial commitments will be made by amendments to the project application as Project Worksheets are completed in the field and projects are authorized by state and federal officials.

Pursuant to the FEMA-STATE AGREEMENT, FEMA will contribute **75** percent of the eligible costs for any eligible project and 100 percent of the federal indirect costs, up to \$250, as provided for in subsection 3.E. of Article I of this Public Assistance Grant Agreement. The APPLICANT will commit to the remaining **25** percent non-federal match to any eligible project that has been identified under the Presidential Disaster Declaration number FEMA-4056-DR-WA, subject to the following exceptions:

**DEPARTMENT Match:** The Washington State Legislature may authorize the DEPARTMENT to provide a match to the APPLICANT's non-federal share of eligible projects. Provision of a match by the DEPARTMENT, if authorized by the Washington State Legislature, shall not require amendment of this Grant Agreement. If DEPARTMENT match funds are committed to the non-federal share by the DEPARTMENT pursuant to legislative authorization, the DEPARTMENT will formally notify the APPLICANT of the match in writing which will include information identifying any related reduction in the APPLICANT's percentage commitment.

**Donated Resources:** FEMA will credit an APPLICANT for the value of certain volunteer labor, donated equipment, and donated materials used in the performance of eligible emergency work – categories A and B, referred to as Donated Resources. The Donated Resources are recognized by FEMA in a Project Worksheet. Donated Resources offset the non-federal share of the eligible emergency work approved in Project Worksheets. For non-state agency applicants, the donated resource value will first be applied to the APPLICANT's non-federal share, and, if a DEPARTMENT match is authorized, any remaining donated resource value will be applied to the DEPARTMENT's share. The value of the Donated Resources are calculated as described in FEMA Policy 9525.2, and are capped at the non-Federal share of approved eligible emergency work costs. The Federal share of the Donated Resources will not exceed the non-federal share of eligible emergency work costs approved in Project Worksheets. Any excess credit can be credited only to other eligible emergency work costs, for the same APPLICANT in the same disaster. The value of excess donated resources cannot be credited toward or transferred to another eligible APPLICANT, or toward other State obligations.

See Attachment #1 – Project Worksheet sample.

#### **2. GRANT AGREEMENT PERIOD**

- A. Activities payable under this Grant Agreement and to be performed by the APPLICANT under this Grant Agreement shall be those activities which occurred during or subsequent to the incident period defined in the FEMA-State Agreement, and shall terminate upon completion of the project(s) approved by federal and state officials, including completion of close-out and audit. This period shall be referred to as the "Grant Agreement Period."
- B. The Grant Agreement Period shall only be extended by (1) mutually agreed written amendment, or (2) written notification from the DEPARTMENT to the APPLICANT issued by the DEPARTMENT to address extensions of its underlying federal grant performance period or to provide additional time for completion of the APPLICANT's project(s).

### 3. PAYMENTS

The DEPARTMENT, using funds granted for the purposes of the Presidential Disaster Declaration from FEMA, shall issue payments to the APPLICANT in compliance with the Washington State Public Assistance Applicant Manual procedures as follows:

- A. Small Project Payments: Payments are made for all small projects to the APPLICANT upon submission and approval of an A19-1A State of Washington Invoice Voucher to the DEPARTMENT, after FEMA has approved funding through approval of Project Worksheets.
- B. Progress Payments: Progress payment of funds for costs already incurred on large projects minus 10 percent retainage may be made to the APPLICANT upon submission by the APPLICANT of an A19-1A State of Washington Invoice Voucher, a letter of request, and a spreadsheet identifying the claimed costs supporting the payment request and approval by the DEPARTMENT.
- C. Improved Projects: Payments on improved projects will be pro-rated based upon the percentage of the project that is funded under this disaster grant to the overall project cost. This percentage will be identified when the first payment on the improved project is made. Progress payments will be made as outlined above in Section B.
- D. Final Payment: Final Payment on a large project will be made following submission by the APPLICANT of a certification of completion on the STATEMENT OF DOCUMENTATION/FINAL INSPECTION REPORT form upon completion of project(s), completion of all final inspections by the DEPARTMENT, and final approval by FEMA. Final payment on a large project will include any retainage withheld during progress payments. Final payments may also be conditional upon financial review, if determined necessary by the DEPARTMENT or FEMA. Adjustments to the final payment may be made following any audits conducted by the Washington State Auditor's Office, the United States Inspector General or other federal or state agency.
- E. The APPLICANT is eligible to receive a \$250 allowance for federal indirect costs, upon completion and closure of the disaster grant. Documentation of costs involved with attending applicant briefing, kick off meeting, and the exit meeting should be retained in the APPLICANT's files to support federal indirect cost reimbursement.
- F. All payment requests shall be made on an A19-1A form, State of Washington, Invoice Voucher. Payments will be made by electronic fund transfer to the APPLICANT's account.
- G. Federal funding shall not exceed the total federal contribution eligible for Public Assistance costs under Presidential Disaster Declaration number FEMA-4056-DR-WA.
- H. For state agencies, the DEPARTMENT will, through interagency reimbursement procedures, transfer payment to the APPLICANT. Payment will be transferred by journal voucher to Agency No. \_\_\_\_\_, Accounting Fund No. \_\_\_\_\_.

### ARTICLE II – DOCUMENTATION

The APPLICANT is required to retain all documentation which adequately identifies the source and application of Public Assistance funds, including the federal indirect cost reimbursement, for six years following the closure of this disaster grant. For all funds received, source documentation includes adequate accounting of actual costs and recoveries incurred.

### ARTICLE III - QUARTERLY REPORTS

The APPLICANT is required to submit to the DEPARTMENT a quarterly report indicating the status of all their large projects. The status shall identify the costs incurred to date, the percentage of work completed, the anticipated completion date of the project and whether cost under runs or over runs are expected. In addition, the APPLICANT should note in the comment field any challenges or issues associated with the project. Failure to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments to the APPLICANT until a complete quarterly report is received by the DEPARTMENT.

## ARTICLE IV – TIME EXTENSIONS

A time extension request is required to be forwarded to the DEPARTMENT by the APPLICANT for a project prior to the expiration of the approved completion date. If the project is approved and funded after the statutory approval time period for completion, then a time extension request must be submitted to the DEPARTMENT within fifteen days of receipt of the funding package.

In accordance with 44CFR206.204, the DEPARTMENT reserves the right, in its sole discretion, to consider and approve a time extension request after expiration of the approved completion date and within the DEPARTMENT's statutory extension authority. Requests for time extensions beyond the DEPARTMENT's authority will be considered and approved by FEMA, at their sole discretion. All determinations made regarding time extension requests will be based on a case by case evaluation of specific factual circumstances.

A time extension request must be in writing and identify the Project Worksheet number, the reason the project has not been completed within the prior approved completion period, the reason the time extension request was not submitted prior to the statutory approval time period (if applicable), a current status of the completion of the work, a detailed timeline for completion of the remaining elements, and an anticipated completion date for the completion of the remaining work. Failure to submit a time extension request in a timely manner may result in denial of the time extension request, and loss of funding for the related project.

## ARTICLE V - CLOSE-OUT

To initiate close-out, the APPLICANT is required to certify in writing, by Project Worksheet Number, date completed and total amount expended on the project, completion of the small projects. To initiate close-out of the large projects, the APPLICANT shall submit certification of completion on a STATEMENT OF DOCUMENTATION/FINAL INSPECTION REPORT form to the DEPARTMENT.

The DEPARTMENT will then complete a site inspection and a financial review of documentation to support the claimed costs. Certifications on small and large projects are due within sixty days following the completion of the project or receipt of the approved Project Worksheet, whichever date is later.

If APPLICANT is claiming the \$250 allowance for federal indirect costs, the APPLICANT shall submit certification that they have expended a minimum of \$250 attending the applicant briefing, kick off meeting, and/or the exit meeting prior to close-out.

After all of the projects have been certified as complete and approved for closure by FEMA, the DEPARTMENT will forward a final A19-1A State of Washington Invoice Voucher to the APPLICANT for release of the remaining funds due to the applicant for eligible costs, including any retainage previously withheld, and the allowance for federal indirect costs.

## ARTICLE VI – KEY PERSONNEL

The individuals listed below shall be considered key personnel and point of contact. Any substitution by either party must be submitted in writing.

### APPLICANT:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

E-mail address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

### DEPARTMENT:

Staff name: **Gerard Urbas**  
Title: Deputy State Coordinating Officer  
Public Assistance  
E-Mail: g.urbas@emd.wa.gov  
Phone Number: **(253) 512-7402**

## ARTICLE VII - ADMINISTRATIVE REQUIREMENTS

A. The APPLICANT shall comply with the following federal Office of Management and Budget (OMB) Circulars as applicable to their organization:

- Administrative Requirements

- OMB A-102, as revised, Grants and Cooperative Agreements with State and Local Governments
    - OMB A-110, as revised, Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
  - Audit Requirements
    - OMB A-133, as revised, Audits of States, Local Governments, and Non-Profit Organizations
- B. The APPLICANT will comply with the federal regulations in: 2 CFR Parts 220, 225, and 230; 44 CFR Parts 7, 9, 10, 13, 14, 17, 18, and 206; and, the state requirements in the Washington State Public Assistance Applicant Manual, dated March 2012. The Cost Principles in 2 CFR 225 and program regulations will be used to determine costs for nonprofit hospitals funded under FEMA grants.
- C. The APPLICANT shall comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and Attachment #2 attached to and made a part of this Agreement.
- D. Federal funding is provided by FEMA and is administered by the DEPARTMENT. Under the authority of Presidential Disaster Declaration number FEMA 4056-DR-WA, the DEPARTMENT is reimbursing the APPLICANT for those approved eligible costs and activities necessary under the Public Assistance Grant Program during the incident period beginning January 13, 2012 and continuing. Eligible costs and activities will be identified in Project Worksheets approved by FEMA.

**Washington State Military Department  
GENERAL TERMS AND CONDITIONS  
Assistance Grants**

**A.1 DEFINITIONS**

As used throughout this Grant Agreement, the following terms shall have the meaning set forth below:

- a. **"Department"** shall mean the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department.
- b. **"Applicant"** shall mean a state agency, local government, tribal government, special purpose district, or an eligible private nonprofit organization submitting an application to the Governor's Authorized Representative for disaster recovery assistance.
- c. **"Applicant Agent"** shall mean the official representative and alternate designated or appointed by the Applicant and authorized to make decisions on behalf of the Applicant.
- d. **"Grantee"** shall mean the government to which a grant is awarded and which is accountable for the use of the funds provided. The Grantee is an entire legal entity even if only a particular component of the entity is designated in the grant award document. For the purpose of this Grant Agreement, the state is the Grantee. The Grantee and the DEPARTMENT are one and the same.
- e. **"Monitoring Activities"** shall mean all administrative, construction, financial, or other review activities that are conducted to ensure compliance with all state and federal rules, authorities or policies.
- d. **"Subgrantee"** shall mean the government or other eligible legal entity to which a subgrant is awarded and which is accountable to the Grantee for the use of the funds provided. The Subgrantee and Applicant are one and the same.
- e. **"Project"** shall mean those actions funded through the Public Assistance Program and described in approved Project Worksheets. Projects may include one or more of the following: reimbursement of costs for emergency response, debris removal and/or repair or restoration of damaged public facilities. A project may be a small, large, improved, or alternate project.
- f. **"PL"** – is defined and used herein to mean the Public Law.
- g. **"CFR"** – is defined and used herein to mean the Code of Federal Regulations.
- h. **"OMB"** – is defined and used herein to mean the Office of Management and Budget.
- i. **"WAC"** – is defined and used herein to mean the Washington Administrative Code.
- j. **"RCW"** – is defined and used herein to mean the Revised Code of Washington.

**A.2 RECORDS AND REPORTS**

- a. The APPLICANT agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the APPLICANT's contracts, contract administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Grant Agreement.
- b. The APPLICANT's records related to this Grant Agreement and the projects funded hereunder may be inspected by the DEPARTMENT or the Director, or their designees, by designees of the Office of the State Auditor, FEMA or their designees, or the Comptroller General of the United States or their designees or by other federal officials authorized by law, for the purposes of determining compliance by the APPLICANT with the terms of this Grant Agreement and to determine the appropriate level of funding to be paid under the subject Grant Agreement.
- c. The records shall be made available by the APPLICANT together with suitable space for such inspection at any and all times during the APPLICANT's normal working day.
- d. The APPLICANT shall retain all records and allow access related to this Grant Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Grant Agreement.

**A.3 WAIVERS**

No conditions or provisions of this Grant Agreement can be waived unless approved in advance by the DEPARTMENT in writing. The DEPARTMENT's failure to insist upon strict performance of any provision of the Grant Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Grant Agreement.

A.4 AMENDMENTS AND MODIFICATIONS

The APPLICANT or the DEPARTMENT may request, in writing, an amendment or modification of this Grant Agreement. However, such amendment or modification shall not take effect until approved, in writing, by the DEPARTMENT and the APPLICANT.

A.5 TERMINATION AND OTHER REMEDIES

- a. If, through any cause, the APPLICANT shall fail to fulfill in a timely and proper manner its obligations under this Grant Agreement or if the APPLICANT shall violate any of its covenants, agreements, or stipulations of this Grant Agreement, the DEPARTMENT shall thereupon have the right to terminate this Grant Agreement and withhold the remaining allocation if such default or violation is not corrected within thirty (30) days after submitting written notice to the APPLICANT describing such default or violation.
- b. Notwithstanding any provisions of this Grant Agreement, either party may terminate this Grant Agreement by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.
- c. Reimbursement for APPLICANT services performed, and not otherwise paid for by the DEPARTMENT prior to the effective date of such termination shall be as the DEPARTMENT reasonably determines.
- d. The DEPARTMENT may unilaterally terminate all or part of this Grant Agreement, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this Grant Agreement.

A.6 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The APPLICANT and all its contractors shall comply with, and the DEPARTMENT is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Energy Policy and Conservation Act (PL 94-163, as amended), the Americans with Disabilities Act (ADA), the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

A.7 LEGAL RELATIONS

It is understood and agreed that this Grant Agreement is solely for the benefit of the parties to the Grant Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Grant Agreement.

To the extent allowed by law, the APPLICANT, its successors or assigns, will protect, save and hold harmless the DEPARTMENT, the State of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the APPLICANT, its subcontractors, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Grant Agreement.

To the extent allowed by law, the APPLICANT further agrees to defend the DEPARTMENT and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Grant Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the DEPARTMENT; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the DEPARTMENT, and (2) the APPLICANT, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the APPLICANT, or APPLICANT's agents or employees.

Insofar as the funding source, the Federal Emergency Management Agency (FEMA), is an agency of the federal government, the following shall apply:

44 CFR 206.9 Non-liability. The federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the federal government in carrying out the provisions of the Stafford Act.

A.8 ACKNOWLEDGMENTS

The APPLICANT shall include language which acknowledges the funding contribution of the DEPARTMENT and FEMA to this project in any release or other publication developed or modified for, or referring to, the project.

A.9 APPLICANT NOT EMPLOYEE

The APPLICANT, and/or employees or agents performing under this Grant Agreement are not employees or agents of the DEPARTMENT in any manner whatsoever. The APPLICANT will not be presented as nor claim to be an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Grant Agreement, nor will the APPLICANT make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Grant Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the APPLICANT is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the state of Washington in their own right and not by reason of this Grant Agreement.

A.10 NONDISCRIMINATION

The APPLICANT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Grant Agreement.

A.11 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

The APPLICANT is encouraged to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Grant Agreement. The APPLICANT may set utilization standards, based upon local conditions or may utilize the state of Washington MWBE goals, as identified in WAC 326-30-041.

A.12 CONFLICT OF INTEREST

No officer or employee of the DEPARTMENT; no member, officer, or employee of the APPLICANT or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such locality or localities who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Grant Agreement. The APPLICANT shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to this provision.

A.13 VENUE

This Grant Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by the laws of the state of Washington. Venue of any suit between the parties arising out of this Grant Agreement shall be the Superior Court of Thurston County, Washington. The APPLICANT, by execution of this Grant Agreement acknowledges the jurisdiction of the courts of the State of Washington.

A.14 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The DEPARTMENT makes no claim to any capital facilities or real property improved or constructed with funds under this Grant Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the APPLICANT. The APPLICANT shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the DEPARTMENT

and the state of Washington and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.15 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Grant Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Grant Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Grant Agreement are declared severable.

A.16 RECAPTURE PROVISION

In the event the APPLICANT fails to expend funds in accordance with federal, state, or local law and/or the provisions of the Grant Agreement, the DEPARTMENT reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Grant Agreement termination. Repayment by the APPLICANT of funds under this recapture provision shall occur within 30 days of demand. In the event the DEPARTMENT is required to institute legal proceeding to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs thereof, including attorney fees.

A.17 RECOVERY OF FUNDS

Any person who intentionally causes a condition for which Public Assistance is provided under this Grant Agreement shall be liable for the costs incurred by the state and federal governments in responding to such disaster. The APPLICANT will cooperate in a reasonable manner with the DEPARTMENT and the United States in efforts to recover expenditures under this Grant Agreement..

A.18 DUPLICATION OF BENEFITS

The APPLICANT agrees that the Public Assistance funds for which federal or state assistance is requested does not, or will not, duplicate benefits or funds received for the same loss from any other source. The APPLICANT will pursue full payment of eligible insurance benefits for properties covered in a project under this Grant Agreement. The APPLICANT will repay any Public Assistance that is duplicated by other benefits, funds, or insurance proceeds.

A.19 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.20 NOTICES

The APPLICANT shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and shall maintain a record of this compliance.

A.21 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Grant Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Grant Agreement provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.22 RESPONSIBILITY FOR PROJECT

While the DEPARTMENT undertakes to assist the APPLICANT with the project by providing grant funds pursuant to this Grant Agreement, the project itself remains the sole responsibility of the APPLICANT. The DEPARTMENT undertakes no responsibility to the APPLICANT, or to any third party, other than as is expressly set out in this Grant Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phases are applicable to this project, is solely that of the APPLICANT, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the APPLICANT shall ensure that all applicable Federal, State, and local permits and clearances are obtained, including FEMA compliance with the National



Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws and executive orders.

The APPLICANT shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the APPLICANT in connection with the project. The APPLICANT shall not look to the DEPARTMENT, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

Pursuant to Sections 403 and 407 of the Stafford Act, 42 U.S.C. §§ 5170b & 5173, and to the extent allowed by law, if debris removal is authorized, the APPLICANT agrees to indemnify and hold harmless the state of Washington and the United States of America for any claims arising from the removal of debris or wreckage for this disaster. The APPLICANT agrees that debris removal from public and private property will not occur until the landowner grants the APPLICANT the right to enter and signs an unconditional authorization for the removal of the debris.

**A.23 HAZARDOUS SUBSTANCES**

The APPLICANT shall inspect and investigate the proposed development/construction site for the presence of hazardous substances. The APPLICANT shall fully disclose to the DEPARTMENT the results of its inspection and investigation and all other knowledge the APPLICANT has as to the presence of any hazardous substances at the proposed development/construction project site. The APPLICANT will be responsible for any associated clean-up costs as a result of the inspections. "Hazardous Substances" are defined in RCW 70.105D.020 (10).

**A.24 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA)**

The APPLICANT represents and warrants that its work place does now or will meet all applicable federal and state safety and health regulations that are in effect during the APPLICANT's performance under this Grant Agreement.

To the extent allowed by law, the APPLICANT further agrees to indemnify and hold harmless the DEPARTMENT and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against the DEPARTMENT, as a result of the failure of the APPLICANT to so comply.

**A.25 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY**

As federal funds are a basis for this Grant Agreement, the APPLICANT certifies that the APPLICANT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Grant Agreement by any federal department or agency. If requested by the DEPARTMENT, the APPLICANT shall complete and sign a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the APPLICANT for this Grant Agreement shall be incorporated into this Grant Agreement by reference.

Further, the APPLICANT agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The APPLICANT certifies that it will ensure that potential subcontractors or subrecipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and sub-awards to subrecipients for any amount. With respect to covered transactions, the APPLICANT may comply with this provision by obtaining a certification statement from the potential subcontractor or subrecipient or by checking the Excluded Parties List System (EPLS) maintained by the federal General Services Administration (GSA). The APPLICANT also agrees not to enter into any arrangements or contracts to perform Public Works projects with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List."

**A.26 SINGLE AUDIT ACT REQUIREMENTS (INCLUDING ALL AMENDMENTS)**

Non-federal entities as subrecipients that expend **\$500,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with the Office of Management and Budget (OMB) Circular A-133-Audits of States, Local Governments, and Non-Profit Organizations (amended June 27, 2003, effective for fiscal years ending after December 31, 2003, and further amended June 26, 2007). Non-federal entities that spend less than **\$500,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in Circular No. A-133. As defined in Circular A-133, the term "non-federal entity" means a State, local government, or non-profit organization, and the term "State" includes Indian tribes. Circular A-133 is available on the OMB Home Page at <http://www.omb.gov>.

Contractors required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General and the OMB Compliance Supplement. The Contractor has the responsibility of notifying its auditor and requesting an audit in compliance with Circular A-133, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by Circular A-133.

The Contractor shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records.

The Contractor is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to Department requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The Department reserves the right to recover from the Contractor all disallowed costs resulting from the audit.

Once the single audit has been completed, the Contractor must send a full copy of the audit to the Department and a letter stating there were no findings, or if there were findings, the letter should provide a list of the findings. The Contractor must send the audit and the letter no later than nine (9) months after the end of the Contractor's fiscal year(s) to:

**Accounting Manager  
Washington Military Department  
Finance Division, Building #1 TA-20  
Camp Murray, WA 98430-5032**

In addition to sending a copy of the audit, the Contractor must include a corrective action plan for any audit findings and a copy of the management letter if one was received.

If Contractor claims it is exempt from the audit requirements of Circular A-133, Contractor must send a letter identifying this contract and explaining the criteria for exemption no later than nine (9) months after the end of the Contractor's fiscal year(s) to:

**Accounting Manager  
Washington Military Department  
Finance Division, Building #1 TA-20  
Camp Murray, WA 98430-5032**

The Department retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

The Contractor shall include the above audit requirements in any subcontracts.

Conducting a single or program-specific audit in compliance with Circular A-133 is a material requirement of this contract. In the absence of a valid claim of exemption from the audit requirements of Circular A-133, the Contractor's failure to comply with said audit requirements may result in one or more of the following actions in the Department's sole discretion:

a percentage of federal awards being withheld until the audit is completed in accordance with Circular A-133; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

#### **A.27 PROJECT MANAGEMENT AND SUBGRANTEE MONITORING**

The DEPARTMENT and the APPLICANT must conduct and monitor grant activities to confirm compliance with applicable Federal requirements and the requirements and special conditions of an approved project.

The APPLICANT agrees to:

- a. Assist in the preparation and writing of the Project Worksheets.
- b. Comply with all funding conditions of an approved project.
- c. Provide financial documentation to support requests for payments.
- d. Maintain records and documentation that adequately identify and directly support a project's eligible costs to the approved project worksheet. Pro-rate or percentage costs are not eligible for reimbursement
- e. Cooperate with and participate in any scheduled or unscheduled monitoring or evaluation activities conducted by the DEPARTMENT or FEMA that are pertinent to this Grant Agreement or an approved Project Worksheet.
- f. Provide the DEPARTMENT with all documentation required to complete evaluations of eligible costs, and provide additional documentation that the DEPARTMENT or FEMA may request as a result of a monitoring visit, review and other or further evaluation of supporting financial documentation and/or reports. If requested documentation is not provided, all costs associated with the project may be determined to be ineligible.
- g. Submit a request for time extension not later than two weeks before a project's deadline.
- h. Notify the DEPARTMENT and request and receive approval for an alternate project prior to beginning construction. Failure to do so may jeopardize funding approval.
- i. Notify the DEPARTMENT and request and receive approval for an improved project prior to starting construction. Failure to do so may jeopardize funding approval.
- k. Immediately notify the DEPARTMENT if hidden damages are discovered, a change order is required, or the scope of work changes in an approved project.
- l. Submit quarterly reports to the DEPARTMENT.
- m. Submit project completion certifications as required for small, large, alternate, or improved projects.

The DEPARTMENT agrees to:

- a. Provide technical assistance during all monitoring or evaluation activities. The DEPARTMENT will coordinate and schedule the meetings necessary to conduct and complete all monitoring and evaluation activities.
- b. Develop the APPLICANT's Project Worksheet(s) (PW) with FEMA and the APPLICANT's assistance based upon the eligible damages.
- c. Provide the APPLICANT with a copy of the approved Project Worksheet.
- d. Conduct site visits during a large project's construction.
- e. Regularly review the APPLICANT's financial documentation to confirm compliance with state and federal rules, authorities, and policies.
- f. Notify the APPLICANT when funding approval is received and issue payment per the process described in Article I, #3 – Payments of the Special Terms and Conditions. Large project final funding will include all costs determined to be eligible based upon the evaluation and review of the APPLICANT's financial documentation.
- g. Work with the APPLICANT to resolve any issues identified during the monitoring process.
- h. Review and respond appropriately to the APPLICANT's requests for time extensions and changes to an approved project.

#### **A.28 SUBCONTRACTING**

The APPLICANT shall use a competitive procurement process in the award of any contracts with contractors or subcontractors that are entered into under the original contract award.

The procurement process followed shall be in accordance with Part 13 of 44 CFR, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments or with OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, as applicable to the APPLICANT.

As required by Section 694 of the "Post-Katrina Emergency Management Reform Act" (P.L. 109-295), which amended section 307 of the Stafford Act, 42 U.S.C. 5150, contracts or agreements with private organizations, firms or individuals for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities, shall be awarded to those organizations, firms and individuals residing or doing business primarily in the geographical area affected by the disaster, to the extent feasible and practicable. Such contracts or agreements with private organizations, firms, or individuals, not residing or doing business primarily in the geographical area affected by the declared disaster shall be justified in writing in the APPLICANT's contract file. Contracts in place prior to a declaration should be transitioned to such local organizations, firms or individuals unless the head of the APPLICANT organization determines that it is not feasible or practicable. This determination must be documented in the APPLICANT's contract file. The transition requirement should not be construed to require an APPLICANT to breach an existing contract.

All subcontracting agreements entered into pursuant to this Grant Agreement shall incorporate this Grant Agreement by reference.

**A.29 PUBLICITY**

The APPLICANT agrees to submit to the DEPARTMENT all advertising and publicity matters relating to this Grant Agreement wherein the DEPARTMENT's name is mentioned or language used from which the connection of the DEPARTMENT's name may, in the DEPARTMENT's judgment, be inferred or implied. The APPLICANT agrees not to publish or use such advertising and publicity matters without the prior written consent of the DEPARTMENT. The APPLICANT may copyright original work it develops in the course of or under this Grant Agreement; however, pursuant to 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

Publication resulting from work performed under this Grant Agreement shall include an acknowledgement of FEMA's financial support, by grant number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

**A.30 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.**

The APPLICANT must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

**A.31 NONASSIGNABILITY**

Neither this Grant Agreement, nor any claim arising under this Grant Agreement, shall be transferred or assigned by the APPLICANT.

**A.32 DISCLOSURE**

The use or disclosure by any party of any information concerning the DEPARTMENT for any purpose not directly connected with the administration of the DEPARTMENT's or the APPLICANT's responsibilities with respect to services provided under this Grant Agreement is prohibited except by prior written consent of the DEPARTMENT. However, the parties acknowledge that the DEPARTMENT, and state and local agencies as defined in RCW 42.56.010, are subject to RCW 42.56, the state Public Records Act.

**A.33 LIMITATION OF AUTHORITY – Authorized Signature**

Only the DEPARTMENT's Authorized Signature and the Authorized Signature or assigned Applicant Agent or Alternate for the APPLICANT, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant Agreement.

Any alteration, amendment, modification, or waiver of any clause or condition of this Grant Agreement is not effective or binding unless made in writing and signed by both parties authorized representatives. Further, only these persons shall have signature authority to sign payment requests, certification of project completion, time extension requests, requests for changes to project status (including improved or alternate project status), and Statements of Documentation for large projects.

**A.34 ASSURANCES**

The APPLICANT certifies that:

- a. They have the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal and non-state shares of the project cost) to ensure proper planning, management and completion of the project described in approved Project Worksheets.
- b. They will give the awarding agency, the Comptroller General of the United States and the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- c. They will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. They will record the federal interest in the title of real property in accordance with FEMA directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure non-discrimination during the useful life of the project.
- d. They will comply with the requirements of the DEPARTMENT and FEMA with regard to the drafting, review and approval of construction plans and specifications, and awarding of construction contracts.
- e. They will provide and maintain competent and adequate engineering supervision at construction sites to ensure that the completed work conforms to the approved plans and specifications and will furnish progress reports and such other information as may be required by either FEMA or the DEPARTMENT.
- f. They will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- g. They will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- h. They will comply with the Intergovernmental Personnel Act of 1970, as amended (42 U.S.C. §§4701 et seq.) relating to prescribed personnel standards on a merit basis for programs funded under one of the 19 statutes or regulations specified in Appendix A of the federal Office of Personnel Management's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).
- i. They will comply with all applicable state and federal statutes, regulations and executive orders relating to nondiscrimination, including but not limited to: (a) Title VI of the Civil Rights Act of 1964 (PL 88-352, 42 U.S.C. 2000d) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 et seq.), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973 (PL 93-112), as amended (29 U.S.C §794), which prohibits discrimination on the basis of disability; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C §§6101 et seq.), which prohibits discrimination on the basis of age; (e) the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.); and (f) the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing. However, the requirements of Section 202 of Executive Order 11246, as amended, do not apply to a government contractor or subcontractor that is a religious corporation, association, educational institution or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.
- j. They will comply, or have already complied, as applicable, with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (PL 91-646, 42 U.S.C. §§4601 et seq.) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs.

These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchases.

- k. They will comply, as applicable, with provisions of the Hatch Act, as amended (5 U.S.C §§1501 et seq. and §§7321 et seq.) which limit the political activities of certain employees whose principal employment activities are funded in whole or in part with federal funds.
- l. They will comply, as applicable, with labor and wage provisions related to certain federally-assisted contracts (e.g., the wage rate requirements in the Davis-Bacon Act, as amended, 40 U.S.C. §§3141 et seq., the Copeland Anti-Kickback provisions in 40 U.S.C §3145 and 18 U.S.C §874, and the Contract Work Hours and Safety Standards in 40 U.S.C §§3701 et seq.).
- m. They will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (PL 93-234), as amended.
- n. They will comply, if applicable, with environmental standards prescribed pursuant to the following: (a) protection and enhancement of environmental quality pursuant to Executive Order (EO) 11514, as amended; (b) administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990, as amended; (d) floodplains management pursuant to EO 11988, as amended; (e) the Coastal Zone Management Act of 1972 (P.L. 92-583), 16 U.S.C. §§1451 et seq., as amended; (f) Air Quality & Emission Limitations pursuant to 42 U.S.C. §§7401 et seq.; (g) the Safe Drinking Water Act of 1974 (PL 93-523), as amended; and, (h) the Endangered Species Act of 1973 (PL 93-205), as amended.
- o. They will comply, if applicable, with the Wild and Scenic Rivers Act (PL 90-542), 16 U.S.C. §§1271 et seq., as amended.
- p. They will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966 (PL 89-665), 16 U.S.C. §470, as amended; EO 11593 (protection and enhancement of the cultural environment); and the Archaeological and Historic Preservation Act, 16 U.S.C. §§469 et seq., as amended.
- q. They will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. chapter 63) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.
- r. They will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
- s. They will comply with all applicable requirements of all other federal laws, executive orders, regulations, and policies governing this program.
- t. They will certify to the best of their knowledge and belief that the New Restrictions on Lobbying, 44 CFR Part 18, are complied with; i.e., that no federally appropriated funds have been paid or will be paid by or on behalf of the APPLICANT to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; that if any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the APPLICANT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and that, as applicable, the APPLICANT will require that the language of this certification be included in the award documents for all subcontracts at all tiers and that all subrecipients shall certify and disclose accordingly.

U.S. DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY <b>PROJECT WORKSHEET</b>				O.M.B. No. 1660-0017	
<b>PAPERWORK BURDEN DISCLOSURE NOTICE</b>					
Public reporting burden for this form is estimated to average 90 minutes per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, disclose, or to provide information to us. You may send comments regarding the accuracy of the burden estimate and or any aspect of the collection, including suggestions for reducing the burden to: Information Collections Management, U. S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (OMB Control Number 1660-0017). You are not required to respond to this collection of information unless a valid OMB number appears in the upper right corner of this form. <b>NOTE: Do not send your completed form to this address.</b>					
DISASTER		PROJECT NO.	PA ID NO.	DATE	CATEGORY
F - R					
DAMAGED FACILITY				WORK COMPLETE AS OF:	
				_____ : _____ %	
APPLICANT			COUNTY		
LOCATION				LATITUDE	LONGITUDE
DAMAGE DESCRIPTION AND DIMENSIONS					
SCOPE OF WORK					
Does the Scope of Work change the pre-disaster conditions at the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Special Considerations issues included? <input type="checkbox"/> Yes <input type="checkbox"/> No Hazard Mitigation proposal included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is there insurance coverage on this facility? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<b>PROJECT COST</b>					
I T	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
				<b>TOTAL COST</b>	
PREPARED BY		TITLE		SIGNATURE	
APPLICANT REP.		TITLE		SIGNATURE	

**ADDITIONAL AGREEMENT PROVISIONS**  
**For Compliance With The**  
**Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282)**

A. This Agreement (subaward) is supported by federal funds, requiring compliance with the Federal Funding Accountability and Transparency Act (FFATA) and Office of Management and Budget Guidance (OMB). Public Law 109-282, as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note). By entering into this Agreement, Applicant agrees to provide all applicable reporting information to the Washington Military Department (Department) required by FFATA and OMB Guidance.

B. The FFATA requires the OMB to establish a publicly available online database (USASpending.gov) containing information about entities that are awarded Federal grants, loans, and contracts. As required by FFATA and OMB Guidance, certain information on the first-tier subawards related to Federal contracts and grants, and the executive compensation of awardees, must be made publicly available.

C. For new Federal grants beginning October 1, 2010, if the initial subaward is equal to or greater than \$25,000, reporting of the subaward and executive compensation information is required. If the initial subaward is below \$25,000 but subsequent grant modifications result in a total subaward equal to or over \$25,000, the subaward will be subject to the reporting requirements as of the date the subaward exceeds \$25,000. If the initial subaward equals or exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the subaward continues to be subject to the reporting requirements of the FFATA and OMB Guidance.

D. As a Federal grant subawardee under this Agreement, your organization is required by FFATA, OMB Guidance and this Agreement to provide the Department, as the prime grant awardee, all information required for FFATA compliant reporting by the Department. This includes all applicable subawardee entity information required by FFATA and OMB Guidance, subawardee Data Universal Numbering System number (DUNS number), and relevant executive compensation data, as applicable.

1. Data about your organization will be provided to USASpending.gov by the Department or by the Federal Contractor Registry (CCR) ([www.ccr.gov](http://www.ccr.gov)). CCR is a government wide registration system for organizations that do business with the Federal Government. CCR stores information about awardees including financial account information for payment purposes and a link to Dunn and Bradstreet (D&B) ([www.dnb.com](http://www.dnb.com)) for maintaining current DUNS information. The Department encourages CCR registration and annual renewal by your organization to minimize unnecessary data entry and re-entry required by both the Department and your organization. It will also reduce the potential of inconsistent or inaccurate data entry.
2. Your organization must have a DUNS number obtained from the firm D&B ([www.dnb.com](http://www.dnb.com)). A DUNS number provides a method to verify data about your organization. D&B is responsible for maintaining unique identifiers and organizational linkages on behalf of the Federal Government for organizations receiving Federal assistance.

E. The Department, as the prime awardee, is required by FFATA to report names and total compensation of the five (5) most highly compensated officers of your organization (as the subawardee) if:

1. Your organization (the subawardee), in the preceding fiscal year, received 80 percent or more of its annual gross revenues from Federal awards and \$25,000,000 or more in annual gross revenues from Federal awards; and
2. The public does not have access to this information about the compensation of the senior executives of your organization through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986).



“Total compensation” for purposes of this requirement generally means the cash and non-cash value earned by the executive during the past fiscal year and includes salary and bonus; awards of stock, stock options and stock appreciation rights; and other compensation such as severance and termination payments, and value of life insurance paid on behalf of the employee, and as otherwise provided by FFATA and applicable OMB Guidance.

F. If (1) in the preceding fiscal year your organization received 80 percent or more of its annual gross revenues from Federal awards and \$25,000,000 or more in annual gross revenues from Federal awards, and (2) the public does not have access to this information about the compensation of the senior executives of your organization through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986), insert the names and total compensation for the five most highly compensated officers of your organization in the table below:

Officer 1 Name	
Officer 1 Total Compensation amount	
Officer 2 Name	
Officer 2 Total Compensation amount	
Officer 3 Name	
Officer 3 Total Compensation amount	
Officer 4 Name	
Officer 4 Total Compensation amount	
Officer 5 Name	
Officer 5 Total Compensation amount	

If your organization does not meet these criteria, specifically identify below each of these criteria that is not met for your organization:

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# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>Resolution No. 12-799, approval of Aquatic Lands Lease from the State of Washington Department of Natural Resources</b>	<b>Agenda Date: May 3, 2012</b>	
	<b>AB12-027</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	<b>X</b>
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
Cost Impact: \$0	Economic Devel. – Andy Williamson	<b>X</b>
Fund Source:	Police – Jamey Kiblinger	
Timeline: May 2012	Court – Stephanie Metcalf	
	Comm. Dev. – Steve Pilcher	
<b>Attachments: Aquatic Lands Lease, Resolution No. 12-799, summary of lease agreement, stormwater management plan for the Lake Sawyer boat launch</b>		
<b>SUMMARY STATEMENT:</b> <p>As the City was applying for the permits to reconstruct the boat ramp the Department of Natural Resources became aware that the City did not have an aquatic lease to use and construct facilities in “waters of the state”. In order to meet our construction schedule the Department of Natural Resources provided the City with a temporary right of entry to allow us stay on schedule and reconstruct the boat ramp with the proviso that the City would follow up and execute a permanent Aquatic Lands Lease.</p> <p>This aquatic lease supports the DNR’s mission to encourage direct public use and access of state-owned aquatic lands (SOAL) set forth in RCW 79.105.030 and secures the City’s right to operate a boat launch on Lake Sawyer.</p> <p>As part of the negotiated terms of this lease the City agreed to the attached stormwater management plan. The stormwater management plan is not tied to the lease so is not binding to the City.</p> <p>Staff recommends approval of the aquatic lease with the State Department of Natural Resources.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-799, authorizing the Mayor to execute the Aquatic Lands Lease with the State of Washington Department of Natural Resources allowing the City to operate and maintain the Lake Sawyer boat launch.</b>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
May 3, 2012		

**RESOLUTION NO. 12-799**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE MAYOR TO EXECUTE AN AQUATIC  
LANDS LEASE AGREEMENT WITH THE STATE OF  
WASHINGTON DEPARTMENT OF NATURAL  
RESOURCES TO ALLOW THE CITY TO OPERATE AND  
MAINTAIN THE LAKE SAWYER BOAT LAUNCH**

**WHEREAS**, Lake Sawyer and its shorelands and bedlands are aquatic lands of the State of Washington; and

**WHEREAS**, the State has the authority over aquatic lands by Chapter 43.12, Chapter 43.30 and Title 79 of the Revised Code of Washington (RCW); and

**WHEREAS**, the City of Black Diamond desires to lease the aquatic lands of the State for the operation and maintenance of the Lake Sawyer boat launch;

**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 Aquatic Lands Lease with the State of Washington Department of Natural Resources to allow the City to operate and maintain the Lake Sawyer boat launch, 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 3<sup>RD</sup> DAY OF MAY, 2012.**

CITY OF BLACK DIAMOND:

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Rebecca Olness, Mayor

Attest:

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Brenda L. Martinez, City Clerk

## **LEASE AGREEMENT SUMMARY**

- Limits the lease to the use as a boat ramp; (see exhibit B)
- Establishes a 30 year term
- Has no annual fee.
- If the City does not want to renew the lease at the end of the term, the ramp may have to be removed
- The City shall cover all expenses related to the boat ramp
- Any future work or improvements to the boat ramp must be approved by the state and be completed according to state standards or work.
- The City shall exercise utmost care to protect the waters of the state
- The city shall notify the State if a contaminating spill occurs.
- Hold the state harmless from liabilities related to the operation of the boat launch
- The City may have to clean up releases of hazardous substances that may occur as a result of use of the boat ramp
- The City cannot rent out the boat launch without the State approval
- The City's insurance meets the insurance requirement (\$1,000,000 per each occurrence)
- The state is not requiring a bond to guarantee performance for the terms of this lease.
- The city must keep the boat ramp in good repair.

# RECORD OF SURVEY

PORTION OF  
GOVERNMENT LOT 5 ( SE 1/4 of NE 1/4 ) S. 04 T. 21 N. R. 06 E., W.M.

RECORDING NO.

VOLUME/PAGE

## LEGAL DESCRIPTION

\* LEGAL DESCRIPTION PER SPECIAL WARRANTY DEED FROM KING COUNTY TO THE CITY OF BLACK DIAMOND AND RECORDED IN KING COUNTY UNDER RECORDING NO. 19950317000097.  
LOT 92, NORTH SHORE OF LAKE SAWYER, AS RECORDED IN VOLUME 35 OF PLATS, PAGE 39, RECORDS OF KING COUNTY, WASHINGTON.

## LEASE AREA DESCRIPTION

THAT PORTION OF THE STATE OWNED AQUATIC LANDS OF LAKE SAWYER, FRONTING, ADJACENT TO GOVERNMENT LOT 5, SECTION 4, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 4;  
THENCE ALONG THE EAST-WEST MID-SECTION LINE THEREOF, SOUTH 89°15'44" EAST 2112.37 FEET TO THE SOUTHERLY EXTENSION OF THE FLAGGED ORDINARY HIGH WATER LINE;  
THENCE ALONG SAID FLAGGED ORDINARY HIGH WATER LINE, NORTH 45°30'32" WEST 63.32 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID FLAGGED ORDINARY HIGH WATER LINE FOR THE FOLLOWING FOUR DOUBLES NORTH 45°30'32" WEST 12.58 FEET;  
THENCE NORTH 87°32'46" WEST 9.27 FEET;  
THENCE NORTH 82°34'42" WEST 15.28 FEET;  
THENCE NORTH 86°22'01" EAST 80.16 FEET;  
THENCE SOUTH 53°42'51" EAST 86.14 FEET;  
THENCE SOUTH 55°22'01" WEST 57.46 FEET TO THE TRUE POINT OF BEGINNING;  
CONTAINING 5,556 SQUARE FEET, MORE OR LESS.

## REFERENCES

- 1) PLAT OF NORTH SHORE OF LAKE SAWYER, VOL. 35 OF PLATS, PAGE 39, RECORDS OF KING COUNTY.
- 2) RECORD OF SURVEY, KING COUNTY RECORDING NO. 8701275002.
- 3) RECORD OF SURVEY, KING COUNTY RECORDING NO. 8701275002.

## PROCEDURAL STATEMENT

THE RELATIVE POSITIONS SHOWN ON THIS SURVEY REPRESENT A FIELD TRAVERSE AND ARE REPORTED TO A RELATIVE ACCURACY THAT MEETS OR EXCEEDS A TOLERANCE OF 1:20,000.

## CERTIFICATE OF CONFORMANCE

THIS SURVEY WAS PERFORMED WITH A TOPCON GPT 3005-LW ELECTRONIC THEODOLITE READING DIRECT TO 5 SECONDS OF ARC AND MEASURING DISTANCE (4-CH2EPN X D) W.M. NOS BASELINE COMPARED DECEMBER, 2010. THIS SURVEY MEETS THE MINIMUM STANDARDS SET FORTH IN WAC 352-130.

## SURVEY NOTES

- 1) THE MONUMENTS SHOWN ON THIS SURVEY WERE ORIGINALLY TIED IN JUNE, 2009. NO PRESENT SURVEY STATION WAS PERFORMED FOR THIS EXHIBIT.
- 2) THE FLAGGED LINE OF ORDINARY HIGH WATER DEPICTED HEREON IS BASED ON FLAGS SET BY ANCHOR/GEA (FORMERLY ANCHOR ENVIRONMENTAL) STAFF IN JUNE, 2009. NO PRESENT VERIFICATION WAS PERFORMED FOR THIS EXHIBIT.
- 3) UNWRITTEN CLAIMS TO PROPERTY INCLUDED IN THIS SURVEY, IF ANY, ARE NOT SHOWN HEREON.
- 4) NO GUARANTEE OF OWNERSHIP IS EXPRESSED OR IMPLIED.

## BASIS OF BEARING

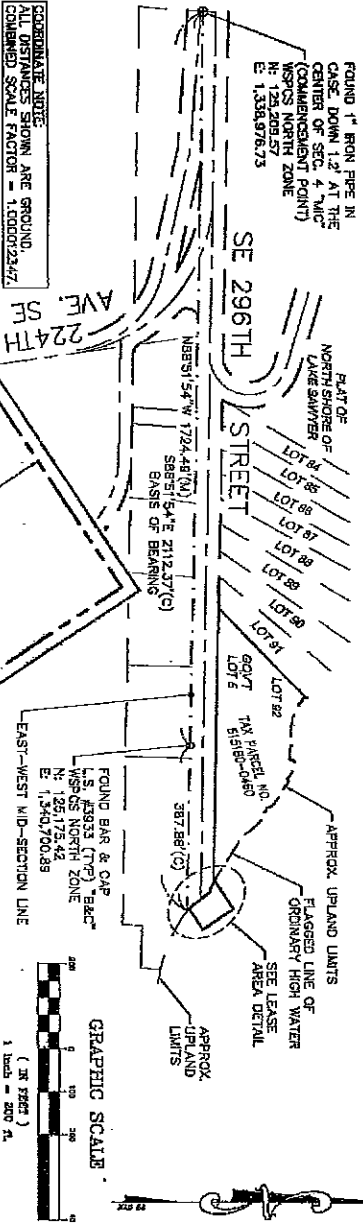
BASIS OF BEARING IS BASED ON A GPS BASELINE RELATED TO WASHINGTON STATE COORDINATE SYSTEM, NORTH ZONE (NAD83/B) USING NOS CORRS STATIONS "SEA" AND "ZSE".

## DNR LEASE EXHIBIT FOR

## CITY OF BLACK DIAMOND

DNR AQUATIC LEASE NO. 20-087339

DNR BY CJD DATE 07/12/2012 JOB NO. 06183  
CHRG. BY JMB SCALE VARIER SHEET 1 OF 1



## LEASE AREA DETAIL

FLAGGED LINE OF ORDINARY HIGH WATER

LEASE AREA = 5,556 S.F. (TOTAL) 5,191 S.F. (BEACHLAND) 365 S.F. (SHORELANDS)

SE 296TH STREET

LAKE SAWYER

SHORELANDS

BEACHLANDS

FLAGGED LINE OF ORDINARY HIGH WATER

LINE AGREED UPON BY THE DNR FOR THE PURPOSE OF DETERMINING THE APPROXIMATE WATERWATER LIMIT OF THE SHORELAND

LEGEND

○ MONUMENT IN CASE, AS NOTED  
○ FOUND REBAR & CAP, AS NOTED

## RECORDERS CERTIFICATE

20120112900001

20120112900001

20120112900001

20120112900001

When recorded, return to:  
City of Black Diamond  
PO Box 599  
Black Diamond, WA 98010-0599



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

### **AQUATIC LANDS LEASE**

**Lease No. 20-087339**

Grantor: Washington State Department of Natural Resources  
Grantee(s): City of Black Diamond  
Legal Description: Section 4, Township 21 North, Range 6 East, W.M.  
Assessor's Property Tax Parcel or Account Number: 605180HYDR  
Assessor's Property Tax Parcel or Account Number for Upland parcel used in conjunction with this lease: 615180-0460

THIS LEASE is between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and CITY OF BLACK DIAMOND, a Government Agency/Entity ("Tenant").

### **BACKGROUND**

Tenant desires to lease the aquatic lands commonly known as Lake Sawyer, which are shorelands and bedlands located in King County, Washington, from State, and State desires to lease the property to Tenant pursuant to the terms and conditions of this Lease. State has authority to enter Lease under Chapter 43.12, Chapter 43.30 and Title 79 of the Revised Code of Washington (RCW).

THEREFORE, the Parties agree as follows:

## SECTION 1 PROPERTY

### 1.1 Property Defined.

- (a) State leases to Tenant and Tenant leases from State the real property described in Exhibit A together with all the rights of State, if any, to improvements on and easements benefiting the Property, but subject to the exceptions and restrictions set forth in this Lease (collectively the "Property").
- (b) This Lease is subject to all valid interests of third parties noted in the records of King County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes.
- (c) This Lease does not include a right to harvest, collect or damage natural resources, including aquatic life or living plants; water rights; mineral rights; or a right to excavate or withdraw sand, gravel, or other valuable materials.
- (d) State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not interfere unreasonably with the Permitted Use.

### 1.2 Survey and Property Descriptions.

- (a) Tenant prepared Exhibit A, which describes the Property. Tenant warrants that Exhibit A is a true and accurate description of the Lease boundaries and the improvements to be constructed or already existing in the Lease area. Tenant's obligation to provide a true and accurate description of the Property boundaries is a material term of this Lease.
- (b) State's acceptance of Exhibit A does not constitute agreement that Tenant's property description accurately reflects the actual amount of land used by Tenant. State reserves the right to retroactively adjust rent if at any time during the term of the Lease State discovers a discrepancy between Tenant's property description and the area actually used by Tenant.

**1.3 Inspection.** State makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Tenant's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Property, or the existence of hazardous substances on the Property. Tenant inspected the Property and accepts it "AS IS."

## SECTION 2 USE

**2.1 Permitted Use.** Tenant shall use the Property for the operation and maintenance of the City of Black Diamond's Lake Sawyer Park public boat launch and the public access and recreational use of State-owned Aquatic Lands in accordance with WAC 332-30-131 (the "Permitted Use"), and for no other purpose. This is a water-dependent use. Exhibit B describes the Permitted Use in detail. The Permitted Use is subject to additional obligations in Exhibit B.

**2.2 Restrictions on Permitted Use and Operations.** The following limitations apply to the Property and adjacent state-owned aquatic land. Tenant's compliance with the following does not limit Tenant's liability under any other provision of this Lease.

- (a) Tenant shall not cause or permit:
  - (1) Damage to natural resources
  - (2) Waste, or
  - (3) Deposit of material, unless approved by State in writing. This prohibition includes deposit of fill, rock, earth, ballast, wood waste, refuse, garbage, waste matter, pollutants of any type, or other matter.
- (b) Tenant shall not install fixed breakwaters.
- (c) Unless approved by State in writing, Tenant shall not cause or permit dredging on the Property. State will not approve dredging unless (1) required for flood control, maintenance of existing vessel traffic lanes, or maintenance of water intakes and (2) consistent with State's management plans, if any. Tenant shall maintain authorized dredge basins in a manner that prevents internal deeper pockets.

**2.3 Conformance with Laws.** Tenant shall, at all times, keep current and comply with all conditions and terms of permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding Tenant's use or occupancy of the Property.

**2.4 Liens and Encumbrances.** Unless expressly authorized by State in writing, Tenant shall keep the Property free and clear of liens or encumbrances arising from the Permitted Use or Tenant's occupancy of the Property.

### SECTION 3 TERM

**3.1 Term Defined.** The term of this Lease is Thirty (30) years (the "Term"), beginning on the 1st day of June, 2012 (the "Commencement Date"), and ending on the 31st day of May, 2042 (the "Termination Date"), unless terminated sooner under the terms of this Lease.

**3.2 Renewal of the Lease.** This Lease does not provide a right of renewal. Tenant may apply for a new lease, which State has discretion to grant. Tenant must apply for a new lease at least one (1) year prior to Termination Date. State will notify Tenant within ninety (90) days of its intent to approve or deny a new Lease

**3.3 End of Term.**

- (a) Upon the expiration or termination of this Lease, Tenant shall remove Improvements in accordance with Section 7, Improvements, and surrender the Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.
- (b) Definition of Reasonable Wear and Tear.
  - (1) Reasonable wear and tear is deterioration resulting from the Permitted Use that has occurred without neglect, negligence, carelessness, accident, or abuse of the Property by Tenant or any other person on the premises with the permission of Tenant.



- (2) Reasonable wear and tear does not include unauthorized deposit of material prohibited under Paragraph 2.2 regardless of whether the deposit is incidental to or the byproduct of the Permitted Use.
- (c) If Property is in worse condition, excepting for reasonable wear and tear, on the surrender date than on the Commencement Date, the following provisions apply.
  - (1) State shall provide Tenant a reasonable time to take all steps necessary to remedy the condition of the Property. State may require Tenant to enter into a right-of-entry or other use authorization prior to the Tenant entering the Property if the Lease has terminated.
  - (2) If Tenant fails to remedy the condition of the Property in a timely manner, State may take steps reasonably necessary to remedy Tenant's failure. Upon demand by State, Tenant shall pay all costs of State's remedy, including but not limited to the costs of removing and disposing of material deposited improperly on the Property, lost revenue resulting from the condition of the Property, and administrative costs associated with the State's remedy.

### **3.4 Holdover.**

- (a) If Tenant remains in possession of the Property after the Termination Date, the occupancy will not be an extension or renewal of the Term. The occupancy will be a month-to-month tenancy, on terms identical to the terms of this Lease, which either Party may terminate on thirty (30) days' written notice.
  - (1) The monthly rent during the holdover will be the same rent that would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms.
  - (2) Payment of more than the monthly rent will not be construed to create a periodic tenancy longer than month-to-month. If Tenant pays more than the monthly rent and State provides notice to vacate the property, State shall refund the amount of excess payment remaining after the Tenant ceases occupation of the Property.
- (b) If State notifies Tenant to vacate the Property and Tenant fails to do so within the time set forth in the notice, Tenant will be a trespasser and shall owe the State all amounts due under RCW 79.02.300 or other applicable law.

## **SECTION 4 RENT**

### **4.1 Annual Rent.**

- (a) Until adjusted as set forth below, Tenant shall pay to State an annual rent of Zero Dollars (\$0).
- (b) The annual rent, as it currently exists or as adjusted or modified (the "Annual Rent"), is due and payable in full on or before the Commencement Date and on or before the same date of each year thereafter. Any payment not paid by State's close of business on the date due is past due.

**4.2 Payment Place.** Tenant shall make payment to Financial Management Division, 1111 Washington St SE, PO Box 47041, Olympia, WA 98504-7041.

**4.3 Adjustment Based on Use.** Annual Rent is based on Tenant's Permitted Use of the Property, as described in Section 2 above. If Tenant's Permitted Use changes, the Annual Rent shall be adjusted as appropriate for the changed use.

**4.4 Rent Adjustment Procedures.**

- (a) Notice of Rent Adjustment. State shall provide notice of adjustments to the Annual Rent allowed under Paragraphs 4.5(b) to Tenant in writing no later than ninety (90) days after the anniversary date of the Lease.
- (b) Procedures on Failure to make Timely Adjustment. If the State fails to provide the notice required in Paragraph 4.4(a), State shall not collect the adjustment amount for the year in which State failed to provide notice. Upon providing notice of adjustment, State may adjust and prospectively bill Annual Rent as if missed or waived adjustments had been implemented at the proper interval. This includes the implementation of any inflation adjustment.

**4.5 Rent Adjustments for Water-Dependent Uses.**

- (a) Inflation Adjustment. State shall adjust water-dependent rent annually pursuant to RCW 79.105.200-.360, except in those years in which State revalues the rent under Paragraph 4.5(b) below. This adjustment will be effective on the anniversary of the Commencement Date.
- (b) Revaluation of Rent. At the end of the first four-year period of the Term, and at the end of each subsequent four-year period, State shall revalue the water-dependent Annual Rent in accordance with RCW 79.105.200-.360.
- (c) Rent Cap. State shall increase rent incrementally in compliance with RCW 79.105.260 as follows: If application of the statutory rent formula for water-dependent uses would result in an increase in the rent attributable to such uses of more than fifty percent (50%) in any one year, State shall limit the actual increase implemented in such year to fifty percent (50%) of the then-existing rent. In subsequent, successive years, State shall increase the rental amount incrementally until the State implements the full amount of increase as determined by the statutory rent formula.

## **SECTION 5 OTHER EXPENSES**

**5.1 Utilities.** Tenant shall pay all fees charged for utilities required or needed by the Permitted Use.

**5.2 Taxes and Assessments.** Tenant shall pay all taxes (including leasehold excise taxes), assessments, and other governmental charges applicable or attributable to the Property, Tenant's leasehold interest, the improvements, or Tenant's use and enjoyment of the Property.

**5.3 Right to Contest.** If in good faith, Tenant may contest any tax or assessment at its sole cost and expense. At the request of State, Tenant shall furnish reasonable protection in the form of a bond or other security, satisfactory to State, against loss or liability resulting from such contest.

**5.4 Proof of Payment.** If required by State, Tenant shall furnish to State receipts or other appropriate evidence establishing the payment of amounts this Lease requires Tenant to pay.

**5.5 Failure to Pay.** If Tenant fails to pay amounts due under this Lease, State may pay the amount due, and recover its cost in accordance with Section 6.

## **SECTION 6 LATE PAYMENTS AND OTHER CHARGES**

**6.1 Failure to Pay Rent.** Failure to pay rent is a default by the Tenant. State may seek remedies under Section 14 as well as late charges and interest as provided in this Section 6.

**6.2 Late Charge.** If State does not receive full rent payment within ten (10) days of the date due, Tenant shall pay to State a late charge equal to four percent (4%) of the unpaid amount or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

**6.3 Interest Penalty for Past Due Rent and Other Sums Owed.**

- (a) Tenant shall pay interest on the past due rent at the rate of one percent (1%) per month until paid, in addition to paying the late charges determined under Paragraph 6.2. Rent not paid by the close of business on the due date will begin accruing interest the day after the due date.
- (b) If State pays or advances any amounts for or on behalf of Tenant, Tenant shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Tenant of the payment or advance. This includes, but is not limited to, State's payment of taxes of any kind, assessments, insurance premiums, costs of removal and disposal of materials or Improvements under any provision of this Lease, or other amounts not paid when due.

**6.4 Referral to Collection Agency and Collection Agency Fees.** If State does not receive full payment within thirty (30) days of the due date, State may refer the unpaid amount to a collection agency as provided by RCW 19.16.500 or other applicable law. Upon referral, Tenant shall pay collection agency fees in addition to the unpaid amount.

**6.5 No Accord and Satisfaction.** If Tenant pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. State may accept payment in any amount without prejudice to State's right to recover the balance of the rent or pursue any other right or remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment constitutes accord and satisfaction.

**6.6 No Counterclaim, Setoff, or Abatement of Rent.** Except as expressly set forth elsewhere in this Lease, Tenant shall pay rent and all other sums payable by Tenant without the requirement that State provide prior notice or demand. Tenant's payment is not subject to counterclaim, setoff, deduction, defense or abatement.

## **SECTION 7 IMPROVEMENTS**

### **7.1 Improvements Defined.**

- (a) "Improvements," consistent with RCW 79.105 through 79.145, are additions within, upon, or attached to the land. This includes, but is not limited to, fill, structures, bulkheads, docks, pilings, and other fixtures.
- (b) "Personal Property" means items that can be removed from the Property without (1) injury to the Property or Improvements or (2) diminishing the value or utility of the Property or Improvements.
- (c) "State-Owned Improvements" are Improvements made or owned by State. State-Owned Improvements includes any construction, alteration, or addition to State-Owned Improvements made by Tenant.
- (d) "Tenant-Owned Improvements" are Improvements authorized by State and (1) made by Tenant or (2) acquired by Tenant from the prior tenant.
- (e) "Unauthorized Improvements" are Improvements made on the Property without State's prior consent or Improvements made by Tenant that do not conform to plans submitted to and approved by the State.

**7.2 Existing Improvements.** On the Commencement Date, the following Improvements are located on the Property: A two-lane, public use and access boat launch. The Improvements are Tenant-Owned Improvements.

### **7.3 Construction, Major Repair, Modification, and Demolition.**

- (a) This Paragraph 7.3 governs construction, alteration, replacement, major repair, modification, demolition, and deconstruction of Improvements ("Work"). Section 11 governs routine maintenance and minor repair.
- (b) All Work must conform to requirements under Paragraph 7.4. Paragraph 11.3, which applies to routine maintenance and minor repair, also applies to all Work under this Paragraph 7.3.
- (c) Except in an emergency, Tenant shall not conduct Work, without State's prior written consent, as follows:
  - (1) State may deny consent if State determines that denial is in the best interests of the State or if proposed Work does not comply with Paragraphs 7.4 and 11.3. State may impose additional conditions reasonably intended to protect and preserve the Property. If Work is for removal of Improvements at End of Term, State may waive removal of some or all Improvements.

- (2) Except in an emergency, Tenant shall submit to State plans and specifications describing the proposed Work at least sixty (60) days before submitting permit applications to regulatory authorities unless Tenant and State otherwise agree to coordinate permit applications. At a minimum, or if no permits are necessary, Tenant shall submit plans and specifications at least ninety (90) days before commencement of Work.
- (3) State waives the requirement for consent if State does not notify Tenant of its grant or denial of consent within sixty (60) days of submittal.
- (d) Tenant shall notify State of emergency Work within five (5) business days of the start of such Work. Upon State's request, Tenant shall provide State with plans and specifications or as-builts of emergency Work.
- (e) Tenant shall not commence or authorize Work until Tenant has:
  - (1) Obtained a performance and payment bond in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction. Tenant shall maintain the performance and payment bond until Tenant pays in full the costs of the Work, including all laborers and material persons.
  - (2) Obtained all required permits.
- (f) Before completing Work, Tenant shall remove all debris and restore the Property to an orderly and safe condition. If Work is intended for removal of Improvements at End of Term, Tenant shall restore the Property in accordance with Paragraph 3.3, End of Term.
- (g) Upon completing work, Tenant shall promptly provide State with as-built plans and specifications.
- (h) State shall not charge rent for authorized Improvements installed by Tenant during this Term of this Lease, but State may charge rent for such Improvements when and if Tenant or successor obtains a subsequent use authorization for the Property and State has waived the requirement for Improvements to be removed as provided in Paragraph 7.5.

#### **7.4 Standards for Work.**

- (a) Applicability of Standards for Work
  - (1) The standards for Work in Paragraph 7.4(b) apply to Work commenced in the five year period following the Commencement Date. Work has commenced if State has approved plans and specifications.
  - (2) If Tenant undertakes Work five years or more after the Commencement Date, Tenant shall comply with State's then current standards for Work.
  - (3) At Tenant's option, Tenant may ascertain State's current standards for Work as follows:
    - (i) Before submitting plans and specifications for State's approval as required by Paragraph 7.3 of the Lease, Tenant shall request State to provide Tenant with then current standards for Work on State-owned Aquatic Lands.
    - (ii) Within thirty (30) days of receiving Tenant's request, State shall provide Tenant with current standards for Work, which will be

effective for the purpose of State's approval of Tenant's proposed Work provided Tenant submits plans and specifications for State's approval within two (2) years of Tenant's request for standards. .

- (iii) If State does not timely provide current standards upon Tenant's request, the standards under Paragraph 7.4(b) apply to Tenant's Work provided Tenant submits plans and specifications as required by Paragraph 7.3 within two (2) years of Tenant's request for standards.
- (iv) If Tenant fails to (1) make a request for current standards or (2) timely submit plans and specifications to State after receiving current standards, Tenant shall make changes in plans or Work necessary to conform to current standards for Work upon State's demand.

(b) Standards for Work

- (1) Tenant shall not install skirting on any overwater structure.
- (2) Tenant shall not conduct in-water Work during time periods prohibited for such work under WAC 220-110-271, Prohibited Work Times in Saltwater, as amended, or as otherwise directed by the Washington Department of Fish and Wildlife (WDFW).
- (3) Tenant shall use embedded anchors and midline floats on all anchored structures and buoys.
- (4) Tenant shall install unobstructed grating over at least 50 percent of the surface area of all new floats, piers, fingers, docks, and gangways; grating material must have at least 60 percent unobstructed open space.
- (5) Regardless of new construction or rebuilding an existing ramp, Tenant shall construct boat ramps and launches to minimize:
  - (i) interruption of longshore current,
  - (ii) alteration of existing sediment transport mechanisms (wave energy, longshore current, or other).

**7.5 Tenant-Owned Improvements at End of Lease.**

(a) Disposition

- (1) Tenant shall remove Tenant-Owned Improvements in accordance with Paragraph 7.3 upon the expiration, termination, or cancellation of the Lease unless State waives the requirement for removal.
- (2) Tenant-Owned Improvements remaining on the Property on the expiration, termination or cancellation date shall become State-Owned Improvements without payment by State, unless State elects otherwise. State may refuse or waive ownership. If RCW 79.125.300 or 79.130.040 apply at the time this Lease expires, Tenant could be entitled to payment by the new tenant for Tenant-Owned Improvements.
- (3) If Tenant-Owned Improvements remain on the Property after the expiration, termination, or cancellation date without State's consent, State may remove all Improvements and Tenant shall pay State's costs.

- (b) **Conditions Under Which State May Waive Removal of Tenant-Owned Improvements.**
  - (1) State may waive removal of some or all Tenant-Owned Improvements whenever State determines that it is in the best interests of the State and regardless of whether Tenant re-leases the Property.
  - (2) If Tenant re-leases the Property, State may waive requirement remove Tenant-Owned Improvements. State also may consent to Tenant's continued ownership of Tenant-Owned Improvements.
  - (3) If Tenant does not re-lease the Property, State may waive requirement to remove Tenant-Owned Improvements upon consideration of a timely request from Tenant, as follows:
    - (i) Tenant must notify State at least one (1) year before the Termination Date of its request to leave Tenant-Owned Improvements.
    - (ii) State, within ninety (90) days of receiving Tenant's notification, will notify Tenant whether State consents to some or all Tenant-Owned Improvements remaining. State has no obligation to grant consent.
    - (iii) State's failure to respond to Tenant's request to leave Improvements within ninety (90) days is a denial of the request.
- (c) **Tenant's Obligations if State Waives Removal.**
  - (1) Tenant shall not remove Improvements if State waives the requirement for removal of some or all Tenant-Owned Improvements.
  - (2) Tenant shall maintain such Improvements in accordance with this Lease until the expiration, termination, or cancellation date. Tenant is liable to State for cost of repair if Tenant causes or allows damage to Improvements State has designated to remain.

**7.6 Disposition of Unauthorized Improvements.**

- (a) Unauthorized Improvements belong to State, unless State elects otherwise.
- (b) State may either:
  - (1) Consent to Tenant ownership of the Improvements, or
  - (2) Charge rent for use of the Improvements from the time of installation or construction and
    - (i) Require Tenant to remove the Improvements in accordance with Paragraph 7.3, in which case Tenant shall pay rent for the Improvements until removal, or
    - (ii) Consent to Improvements remaining and Tenant shall pay rent for the use of the Improvements, or
    - (iii) Remove Improvements and Tenant shall pay for the cost of removal and disposal, in which case Tenant shall pay rent for use of the Improvements until removal and disposal.

**7.7 Disposition of Personal Property.**

- (a) Tenant retains ownership of Personal Property unless Tenant and State agree otherwise in writing.

- (b) Tenant shall remove Personal Property from the Property by the Termination Date. Tenant is liable for damage to the Property and Improvements resulting from removal of Personal Property.
- (c) State may sell or dispose of all Personal Property left on the Property after the Termination Date.
  - (1) If State conducts a sale of Personal Property, State shall apply proceeds first to the State's administrative costs in conducting the sale, second to payment of amount that then may be due from the Tenant to the State. State shall pay the remainder, if any, to the Tenant.
  - (2) If State disposes of Personal Property, Tenant shall pay for the cost of removal and disposal.

## SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

### 8.1 Definitions.

- (a) "Hazardous Substance" means any substance that now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination, pollution, or cleanup.
- (b) "Release or threatened release of Hazardous Substance" means a release or threatened release as defined under any law described in Paragraph 8.1(a).
- (c) "Utmost care" means such a degree of care as would be exercised by a very careful, prudent, and competent person under the same or similar circumstances; the standard of care applicable under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105 RCW, as amended.
- (d) "Tenant and affiliates" when used in this Section 8 means Tenant or Tenant's subtenants, contractors, agents, employees, guests, invitees, licensees, affiliates, or any person on the Property with the Tenant's permission.
- (e) "Liabilities" as used in this Section 8 means any claims, demands, proceedings, lawsuits, damages, costs, expenses, fees (including attorneys' fees and disbursements), penalties, or judgments.

### 8.2 General Conditions.

- (a) Tenant's obligations under this Section 8 extend to the area in, on, under, or above
  - (1) The Property and
  - (2) Adjacent state-owned aquatic lands if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use.
- (b) Standard of Care.
  - (1) Tenant shall exercise the utmost care with respect to Hazardous Substances.
  - (2) Tenant shall exercise utmost care for the foreseeable acts or omissions of third parties with respect to Hazardous Substances, and the foreseeable consequences of those acts or omissions, to the extent required to establish a viable, third-party defense under the law.



**8.3 Current Conditions and Duty to Investigate.**

- (a) State makes no representation about the condition of the Property. Hazardous Substances may exist in, on, under, or above the Property.
- (b) This Lease does not impose a duty on State to conduct investigations or supply information to Tenant about Hazardous Substances.
- (c) Tenant is responsible for conducting all appropriate inquiry and gathering sufficient information about the existence, scope, and location of Hazardous Substances on or near the Property necessary for Tenant to meet Tenant's obligations under this Lease and utilize the Property for the Permitted Use.

**8.4 Use of Hazardous Substances.**

- (a) Tenant and affiliates shall not use, store, generate, process, transport, handle, release, or dispose of Hazardous Substances, except in accordance with all applicable laws.
- (b) Tenant shall not undertake, or allow others to undertake by Tenant's permission, acquiescence, or failure to act, activities that result in a release or threatened release of Hazardous Substances.
- (c) If use of Hazardous Substances related to Tenant's use or occupancy of the Property results in violation of law:
  - (1) Tenant shall submit to State any plans for remedying the violations, and
  - (2) Tenant shall implement any remedial measures to restore the Property or natural resources that State may require in addition to remedial measures required by regulatory authorities.

**8.5 Management of Contamination, if any.**

- (a) Tenant and affiliates shall not undertake activities that:
  - (1) Damage or interfere with the operation of remedial or restoration activities, if any;
  - (2) Result in human or environmental exposure to contaminated sediments, if any;
  - (3) Result in the mechanical or chemical disturbance of on-site habitat mitigation, if any.
- (b) If requested, Tenant shall allow reasonable access to:
  - (1) Employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, health department, or other similar environmental agencies; and
  - (2) Potentially liable or responsible parties who are the subject of an order or consent decree that requires access to the Property. Tenant may negotiate an access agreement with such parties, but Tenant may not unreasonably withhold such agreement.

**8.6 Notification and Reporting.**

- (a) Tenant shall immediately notify State if Tenant becomes aware of any of the following:
  - (1) A release or threatened release of Hazardous Substances;

- (2) Any new discovery of or new information about a problem or liability related to, or derived from, the presence of Hazardous Substances;
  - (3) Any lien or action arising from Hazardous Substances;
  - (4) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances;
  - (5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.
- (b) Tenant's duty to report under Paragraph 8.6(a) extends to lands described in Paragraph 8.2(a) and to any other property used by Tenant in conjunction with the Property if a release of Hazardous Substances on the other property could affect the Property.
  - (c) Tenant shall provide State with copies of all documents Tenant submits to any federal, state or local authorities concerning environmental impacts or proposals relative to the Property. Documents subject to this requirement include, but are not limited to, applications, reports, studies, or audits for National Pollution Discharge and Elimination System Permits; Army Corps of Engineers permits; State Hydraulic Project Approvals (HPA); State Water Quality certification; Substantial Development permit; and any reporting necessary for the existence, location, and storage of Hazardous Substances on the Property.

#### **8.7 Indemnification.**

- (a) Tenant shall fully indemnify, defend, and hold State harmless from and against Liabilities that arise out of, or relate to:
  - (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Tenant and affiliates occurring whenever Tenant occupies or has occupied the Property;
  - (2) The release or threatened release of any Hazardous Substance resulting from any act or omission of Tenant and affiliates occurring whenever Tenant occupies or has occupied the Property.
- (b) Tenant shall fully indemnify, defend, and hold State harmless for Liabilities that arise out of or relate to Tenant's breach of obligations under Paragraph 8.5.

#### **8.8 Reservation of Rights.**

- (a) For Liabilities not covered by the indemnification provisions of Paragraph 8.7, the Parties expressly reserve and do not waive any rights, claims, immunities, causes of action, or defenses relating to Hazardous Substances that either Party may have against the other under law.
- (b) The Parties expressly reserve all rights, claims, immunities, and defenses either Party may have against third parties. Nothing in this Section 8 benefits or creates rights for third parties.
- (c) The allocations of risks, Liabilities, and responsibilities set forth in this Section 8 do not release either Party from or affect the liability of either Party for Hazardous Substances claims or actions by regulatory agencies.

**8.9 Cleanup.**

- (a) If Tenant's act, omission, or breach of obligation under Paragraph 8.4 results in a release of Hazardous Substances that exceeds the threshold limits of any applicable regulatory standard, Tenant shall, at Tenant's sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances in accordance with applicable law.
- (b) Tenant may undertake a cleanup of the Property pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that Tenant cooperates with the Department of Natural Resources in development of cleanup plans. Tenant shall not proceed with Voluntary Cleanup without the Department of Natural Resources approval of final plans. Nothing in the operation of this provision is an agreement by the Department of Natural Resources that the Voluntary Cleanup complies with any laws or with the provisions of this Lease. Tenant's completion of a Voluntary Cleanup is not a release from or waiver of any obligation for Hazardous Substances under this Lease.

**8.10 Sampling by State, Reimbursement, and Split Samples.**

- (a) State may enter the Property and conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Property at any time to determine the existence, scope, or effects of Hazardous Substances.
- (b) If such Tests, along with any other information, demonstrate a breach of Tenant's obligations regarding Hazardous Substances under this Lease, Tenant shall promptly reimburse State for all costs associated with the Tests, provided State gave Tenant thirty (30) calendar days advance notice in non-emergencies and reasonably practical notice in emergencies.
- (c) In non-emergencies, Tenant is entitled to obtain split samples of Test samples, provided Tenant gives State written notice requesting split samples at least ten (10) calendar days before State conducts Tests. Upon demand, Tenant shall promptly reimburse State for additional cost, if any, of split samples.
- (d) If either Party conducts Tests on the Property, the conducting Party shall provide the other with validated final data and quality assurance/quality control/chain of custody information about the Tests within sixty (60) calendar days of a written request by the other party, unless Tests are part of a submittal under Paragraph 8.6(c) in which case Tenant shall submit data and information to State without written request by State. Neither party is obligated to provide any analytical summaries or the work product of experts.

**SECTION 9 ASSIGNMENT AND SUBLETTING**

**9.1 State Consent Required.** Tenant shall not convey, transfer, or encumber any part of Tenant's interest in this Lease or the Property without State's prior written consent, which State shall not unreasonably condition or withhold.

- (a) In determining whether to consent, State may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the

nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. State may refuse its consent to any conveyance, transfer, or encumbrance if it will result in a subdivision of the leasehold. Tenant shall submit information regarding any proposed transferee to State at least thirty (30) days prior to the date of the proposed transfer.

- (b) State reserves the right to condition its consent upon:
  - (1) changes in the terms and conditions of this Lease, including, but not limited to, the Annual Rent; and/or
  - (2) the agreement of Tenant or transferee to conduct Tests for Hazardous Substances on the Property or on other property owned or occupied by Tenant or the transferee.
- (c) Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge, or otherwise affect the liability of Tenant.
- (d) State's consent under this Paragraph 9.1 does not constitute a waiver of any claims against Tenant for the violation of any term of this Lease.

**9.2 Rent Payments Following Assignment.** The acceptance by State of the payment of rent following an assignment or other transfer does not constitute consent to any assignment or transfer.

**9.3 Terms of Subleases.**

- (a) Tenant shall submit the terms of all subleases to State for approval.
- (b) Tenant shall incorporate the following requirements in all subleases:
  - (1) The sublease must be consistent with and subject to all the terms and conditions of this Lease;
  - (2) The sublease must provide that this Lease controls if the terms of the sublease conflict with the terms of this Lease;
  - (3) The term of the sublease (including any period of time covered by a renewal option) must end before the Termination Date of the initial Term or any renewal term;
  - (4) The sublease must terminate if this Lease terminates for any reason;
  - (5) The subtenant must receive and acknowledge receipt of a copy of this Lease;
  - (6) The sublease must prohibit the prepayment to Tenant by the subtenant of more than the annual rent;
  - (7) The sublease must identify the rental amount subtenant is to pay to Tenant;
  - (8) The sublease must provide that there is no privity of contract between the subtenant and State;
  - (9) The sublease must require removal of the subtenant's Improvements and Personal Property upon termination of the sublease;
  - (10) The subtenant's permitted use must be within the scope of the Permitted Use; and
  - (11) The sublease must require the subtenant to meet all obligations of Tenant under Section 10, Indemnification, Financial Security, and Insurance.

**9.4 Short-Term Subleases of Moorage Slips.** Short-term subleasing of moorage slips for a term of less than one year does not require State's written consent or approval pursuant to Paragraphs 9.1 or 9.3. Tenant shall conform moorage sublease agreements to the sublease requirements in Paragraph 9.3.

## **SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE**

### **10.1 Indemnity.**

- (a) Tenant shall indemnify, defend, and hold State, its employees, officers, and agents harmless from Claims arising out of the use, occupation, or control of the Property by Tenant, its subtenants, contractors, agents, invitees, guests, employees, affiliates, licensees, or permittees.
- (b) "Claim" as used in this Paragraph 10.1 means any financial loss, claim, suit, action, damages, expenses, fees (including attorneys' fees), penalties, or judgments attributable to bodily injury, sickness, disease, death, and damages to tangible property, including, but not limited to, land, aquatic life, and other natural resources. "Damages to tangible property" includes, but is not limited to, physical injury to the Property and damages resulting from loss of use of the Property.
- (c) State shall not require Tenant to indemnify, defend, and hold State harmless for claims that arise solely out of the willful or negligent act of State or State's elected officials, employees, or agents.
- (d) Tenant waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold State and its agencies, officials, agents, or employees harmless.
- (e) Section 8, Environmental Liability/Risk Allocation, exclusively shall govern Tenant's liability to State for Hazardous Substances and its obligation to indemnify, defend, and hold State harmless for Hazardous Substances.

### **10.2 Insurance Terms.**

- (a) Insurance Required.
  - (1) Tenant certifies that it is self-insured for all the liability exposures, its self-insurance plan satisfies all State requirements, and its self-insurance plan provides coverage equal to that required in this Paragraph 10.2 and by Paragraph 10.3, Insurance Types and Limits. Tenant shall provide to State evidence of its status as a self-insured entity. Upon request by State, Tenant shall provide a written description of its financial condition and/or the self-insured funding mechanism. Tenant shall provide State with at least thirty (30) days' written notice prior to any material changes to Tenant's self-insured funding mechanism.
  - (2) Unless State agrees to an exception, Tenant shall provide insurance issued by an insurance company or companies admitted to do business in the State of Washington and have a rating of A- or better by the most recently published edition of Best's Reports. Tenant may submit a request to the

risk manager for the Department of Natural Resources to approve an exception to this requirement. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies shall comply with Chapter 48.15 RCW and 284-15 WAC.

- (3) All general liability, excess, umbrella, property, builder's risk, and pollution legal liability insurance policies must name the State of Washington, the Department of Natural Resources, its elected and appointed officials, agents, and employees as an additional insured.
  - (4) All insurance provided in compliance with this Lease must be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- (b) Waiver.
- (1) Tenant waives all rights against State for recovery of damages to the extent insurance maintained pursuant to this Lease covers these damages.
  - (2) Except as prohibited by law, Tenant waives all rights of subrogation against State for recovery of damages to the extent that they are covered by insurance maintained pursuant to this lease.
- (c) Proof of Insurance.
- (1) Tenant shall provide State with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with insurance requirements specified in this Lease and, if requested, copies of policies to State.
  - (2) The certificate(s) of insurance must reference additional insureds and the Lease number.
  - (3) Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies.
- (d) State must receive written notice before cancellation or non-renewal of any insurance required by this Lease, as follows:
- (1) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State forty-five (45) days' advance notice of cancellation or non-renewal.
  - (2) Insurers subject to RCW 48.15 (surplus lines): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State thirty (30) days' advance notice of cancellation or non-renewal.
- (e) Adjustments in Insurance Coverage.
- (1) State may impose changes in the limits of liability for all types of insurance as State deems necessary.
  - (2) Tenant shall secure new or modified insurance coverage within thirty (30) days after State requires changes in the limits of liability.
- (f) If Tenant fails to procure and maintain the insurance described above within fifteen (15) days after Tenant receives a notice to comply from State, State may either:

- (1) Deem the failure an Event of Default under Section 14, or
- (2) Procure and maintain comparable substitute insurance and pay the premiums. Upon demand, Tenant shall pay to State the full amount paid by State, together with interest at the rate provided in Paragraph 6.2 from the date of State's notice of the expenditure until Tenant's repayment.
- (g) General Terms.
  - (1) State does not represent that coverage and limits required under this Lease are adequate to protect Tenant.
  - (2) Coverage and limits do not limit Tenant's liability for indemnification and reimbursements granted to State under this Lease.
  - (3) The Parties shall use any insurance proceeds payable by reason of damage or destruction to property first to restore the real property covered by this Lease, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Tenant.

### 10.3 Insurance Types and Limits.

- (a) General Liability Insurance.
  - (1) Tenant shall maintain commercial general liability insurance (CGL) or marine general liability (MGL) covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Tenant's use, occupation, or control of the Property and, if necessary, commercial umbrella insurance with a limit of not less than One Million Dollars (\$1,000,000) per each occurrence. If such CGL or MGL insurance contains aggregate limits, the general aggregate limit must be at least twice the "each occurrence" limit. CGL or MGL insurance must have products-completed operations aggregate limit of at least two times the "each occurrence" limit.
  - (2) CGL insurance must be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 (or a substitute form providing equivalent coverage). All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.
  - (3) MGL insurance must have no exclusions for non-owned watercraft.
- (b) Workers' Compensation.
  - (1) State of Washington Workers' Compensation.
    - (i) Tenant shall comply with all State of Washington workers' compensation statutes and regulations. Tenant shall provide workers' compensation coverage for all employees of Tenant. Coverage must include bodily injury (including death) by accident or disease, which arises out of or in connection with Tenant's use, occupation, and control of the Property.

- (ii) If Tenant fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Tenant shall indemnify State. Indemnity shall include all fines; payment of benefits to Tenant, employees, or their heirs or legal representatives; and the cost of effecting coverage on behalf of such employees.
- (2) Longshore and Harbor Workers' and Jones Acts. Longshore and Harbor Workers' Act (33 U.S.C. Section 901 *et seq.*) and/or the Jones Act (46 U.S.C. Section 688) may require Tenant to provide insurance coverage in some circumstances. Tenant shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with law. Tenant is responsible for all civil and criminal liability arising from failure to maintain such coverage.
- (c) Employers' Liability Insurance. Tenant shall procure employers' liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident or One Million Dollars (\$1,000,000) each employee for bodily injury by disease.

#### 10.4 Financial Security.

- (a) At its own expense, Tenant shall procure and maintain during the Term of this Lease a corporate security bond or provide other financial security that State, at its option, may approve ("Security"). Tenant shall provide Security in an amount equal to Zero Dollars (\$0), which is consistent with RCW 79.105.330, and secures Tenant's performance of its obligations under this Lease, with the exception of the obligations under Section 8, Environmental Liability/Risk Allocation. Tenant's failure to maintain the Security in the required amount during the Term constitutes a breach of this Lease.
- (b) All Security must be in a form acceptable to the State.
  - (1) Bonds must be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better, in the most recently published edition of Best's Reports, unless State approves an exception. Tenant may submit a request to the risk manager for the Department of Natural Resources for an exception to this requirement.
  - (2) Letters of credit, if approved by State, must be irrevocable, allow State to draw funds at will, provide for automatic renewal, and comply with RCW 62A.5-101, *et. seq.*
  - (3) Savings account assignments, if approved by State, must allow State to draw funds at will.
- (c) Adjustment in Amount of Security.
  - (1) State may require an adjustment in the Security amount:
    - (i) At the same time as revaluation of the Annual Rent,
    - (ii) As a condition of approval of assignment or sublease of this Lease,
    - (iii) Upon a material change in the condition or disposition of any Improvements, or
    - (iv) Upon a change in the Permitted Use.



- (2) Tenant shall deliver a new or modified form of Security to State within thirty (30) days after State has required adjustment of the amount of the Security.
- (d) Upon any default by Tenant in its obligations under this Lease, State may collect on the Security to offset the liability of Tenant to State. Collection on the Security does not (1) relieve Tenant of liability, (2) limit any of State's other remedies, (3) reinstate or cure the default or (4) prevent termination of the Lease because of the default.

## **SECTION 11 ROUTINE MAINTENANCE AND REPAIR**

**11.1 State's Repairs.** This Lease does not obligate State to make any alterations, maintenance, replacements, or repairs in, on, or about the Property, or any part thereof, during the Term.

**11.2 Tenant's Repairs and Maintenance.**

- (a) Routine maintenance and repair are acts intended to prevent a decline, lapse or, cessation of the Permitted Use and associated Improvements. Routine maintenance or repair is the type of work that does not require regulatory permits.
- (b) At Tenant's own expense, Tenant shall keep and maintain the Property and all Improvements in good order and repair and in a safe condition. State's consent is not required for routine maintenance or repair.
- (c) At Tenant's own expense, Tenant shall make any additions, repairs, alterations, maintenance, replacements, or changes to the Property or to any Improvements on the Property that any public authority may require. If a public authority requires work beyond the scope of routine maintenance and repair, Tenant shall comply with Section 7 of this Lease.

**11.3 Limitations.** The following limitations apply whenever Tenant conducts maintenance, repair or replacement.

- (a) Tenant shall not use or install treated wood at any location above or below water, except that Tenant may use treated wood for above water structural framing.
- (b) Tenant shall not use or install tires (for example, floatation or fenders) at any location above or below water.
- (c) Tenant shall install only floatation material encapsulated in a shell resistant to ultraviolet radiation and abrasion. The shell must be capable of preventing breakup and loss of floatation material into the water.
- (d) Tenant shall orient night lighting to minimize the amount of light shining directly on the water.
- (e) Tenant shall not allow new floating structures to come in contact with underlying shorelands and bedlands ("ground out"). Tenant must either (1) locate all new floating structures in water too deep to permit grounding out or (2) install stoppers sufficient to maintain a distance of at least 1.5 feet (0.5 meters) between the bottom of the floats and the substrate.

## SECTION 12 DAMAGE OR DESTRUCTION

### 12.1 Notice and Repair.

- (a) In the event of damage to or destruction of the Property or Improvements, Tenant shall promptly give written notice to State. State does not have actual knowledge of the damage or destruction without Tenant's written notice.
- (b) Unless otherwise agreed in writing, Tenant shall promptly reconstruct, repair, or replace the Property and Improvements as nearly as possible to its condition immediately prior to the damage or destruction in accordance with Paragraph 7.3, Construction, Major Repair, Modification, and Demolition and Tenant's additional obligations in Exhibit B, if any.

**12.2 State's Waiver of Claim.** State does not waive any claims for damage or destruction of the Property unless State provides written notice to Tenant of each specific claim waived.

**12.3 Insurance Proceeds.** Tenant's duty to reconstruct, repair, or replace any damage or destruction of the Property or any Improvements on the Property is not conditioned upon the availability of any insurance proceeds to Tenant from which the cost of repairs may be paid. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).

**12.4 Rent in the Event of Damage or Destruction.** Unless the Parties agree to terminate this Lease, there is no abatement or reduction in rent during such reconstruction, repair, and replacement.

**12.5 Default at the Time of Damage or Destruction.** If Tenant is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State then shall have the right to retain any insurance proceeds payable as a result of the damage or destruction.

## SECTION 13 CONDEMNATION

### 13.1 Definitions.

- (a) "Taking" means that an entity authorized by law exercises the power of eminent domain, either by judgment, settlement in lieu of judgment, or voluntary conveyance in lieu of formal court proceedings, over all or any portion of the Property and Improvements. This includes any exercise of eminent domain on any portion of the Property and Improvements that, in the judgment of the State, prevents or renders impractical the Permitted Use.
- (b) "Date of Taking" means the date upon which title to the Property or a portion of the Property passes to and vests in the condemner or the effective date of any order for possession if issued prior to the date title vests in the condemner.

**13.2 Effect of Taking.** If there is a taking, the Lease terminates proportionate to the extent of the taking. If this Lease terminates in whole or in part, Tenant shall make all payments due and attributable to the taken Property up to the date of taking. If Tenant has pre-paid rent and Tenant

is not in default of the Lease, State shall refund Tenant the pro rata share of the pre-paid rent attributable to the period after the date of taking.

**13.3 Allocation of Award.**

- (a) The Parties shall allocate the condemnation award based upon the ratio of the fair market value of (1) Tenant's leasehold estate and Tenant-Owned Improvements and (2) State's interest in the Property; the reversionary interest in Tenant-Owned Improvements, if any; and State-Owned Improvements, if any.
- (b) If Tenant and State are unable to agree on the allocation, the Parties shall submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association.

**SECTION 14 DEFAULT AND REMEDIES**

**14.1 Default Defined.** Tenant is in default of this Lease on the occurrence of any of the following:

- (a) Failure to pay rent or other expenses when due;
- (b) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
- (c) Failure to comply with any other provision of this Lease;
- (d) Commencement of bankruptcy proceedings by or against Tenant or the appointment of a trustee or receiver of Tenant's property.

**14.2 Tenant's Right to Cure.**

- (a) A default becomes an "Event of Default" if Tenant fails to cure the default within the applicable cure period following State's written notice of default. Upon an Event of Default, State may seek remedies under Paragraph 14.3.
- (b) Unless expressly provided elsewhere in this Lease, the cure period is ten (10) days for failure to pay rent or other monetary defaults; for other defaults, the cure period is thirty (30) days.
- (c) For nonmonetary defaults not capable of cure within thirty (30) days, State will not unreasonably withhold approval of a reasonable alternative cure schedule. Tenant must submit a cure schedule within thirty (30) days of a notice of default. The default is not an Event of Default if State approves the schedule and Tenant works diligently and in good faith to execute the cure. The default is an Event of Default if Tenant fails to timely submit a schedule or fails to cure in accordance with an approved schedule.
- (d) State may elect to deem a default by Tenant as an Event of Default if the default occurs within six (6) months after a default by Tenant for which State has provided notice and opportunity to cure and regardless of whether the first and subsequent defaults are of the same nature.

**14.3 Remedies.**

- (a) Upon an Event of Default, State may terminate this Lease and remove Tenant by summary proceedings or otherwise.

- (b) If the Event of Default (1) arises from Tenant's failure to comply with restrictions on Permitted Use and operations under Paragraph 2.2 or (2) results in damage to natural resources or the Property, State may enter the Property without terminating this Lease to (1) restore the natural resources or Property and charge Tenant restoration costs and/or (2) charge Tenant for damages. On demand by State, Tenant shall pay all costs and/or damages.
- (c) Without terminating this Lease, State may relet the Property on any terms and conditions as State may decide are appropriate.
  - (1) State shall apply rent received by reletting: (1) to the payment of any indebtedness other than rent due from Tenant to State; (2) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. State shall hold and apply any balance to Tenant's future rent as it becomes due.
  - (2) Tenant is responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly.
  - (3) At any time after reletting, State may elect to terminate this Lease for the previous Event of Default.
- (d) State's reentry or repossession of the Property under Paragraph 14.3 is not an election to terminate this Lease or cause a forfeiture of rents or other charges Tenant is obligated to pay during the balance of the Term, unless (1) State gives Tenant written notice of termination or (2) a legal proceeding decrees termination.
- (e) The remedies specified under this Paragraph 14.3 are not exclusive of any other remedies or means of redress to which the State is lawfully entitled for Tenant's breach or threatened breach of any provision of this Lease.

## **SECTION 15 ENTRY BY STATE**

State may enter the Property at any reasonable hour to inspect for compliance with the terms of this Lease, to monitor impacts to habitat, or survey habitat and species. Tenant grants State permission to cross Tenant's upland property to access the Property. State will inspect the Property annually. State may coordinate the site inspection with Washington State Department of Ecology or other regulatory authorities, if appropriate. Provision for periodic inspection does not preclude State's option to inspect at other times. State's failure to inspect the Property does not constitute a waiver of any rights or remedies under this Lease.

## **SECTION 16 DISCLAIMER OF QUIET ENJOYMENT**

### **16.1 No Guaranty or Warranty.**

- (a) State believes that this Lease is consistent with the Public Trust Doctrine and that none of the third-party interests identified in Paragraph 1.1(b) will materially or adversely affect Tenant's right of possession and use of the Property, but State makes no guaranty or warranty to that effect.

- (b) State disclaims and Tenant releases State from any claim for breach of any implied covenant of quiet enjoyment. This disclaimer and release includes, but is not limited to, interference arising from exercise of rights under the Public Trust Doctrine; Treaty rights held by Indian Tribes; and the general power and authority of State and the United States with respect to aquatic lands and navigable waters.
- (c) Tenant is responsible for determining the extent of Tenant's right to possession and for defending Tenant's leasehold interest.

**16.2 Eviction by Third-Party.** If a third-party evicts Tenant, this Lease terminates as of the date of the eviction. In the event of a partial eviction, Tenant's rent obligations abate as of the date of the partial eviction, in direct proportion to the extent of the eviction; this Lease shall remain in full force and effect in all other respects.

## **SECTION 17 NOTICE AND SUBMITTALS**

Following are the locations for delivery of notice and submittals required or permitted under this Lease. Any Party may change the place of delivery upon ten (10) days written notice to the other.

State: DEPARTMENT OF NATURAL RESOURCES  
Shoreline District Aquatics  
950 Farman Ave N  
Enumclaw, WA 98022-9282

Tenant: CITY OF BLACK DIAMOND  
PO Box 599  
Black Diamond, WA 98010-0599

The Parties may deliver any notice in person, by facsimile machine, or by certified mail. Depending on the method of delivery, notice is effective upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after mailing. All notices must identify the Lease number. On notices transmitted by facsimile machine, the Parties shall state the number of pages contained in the notice, including the transmittal page, if any.

## **SECTION 18 MISCELLANEOUS**

**18.1 Authority.** Tenant and the person or persons executing this Lease on behalf of Tenant represent that Tenant is qualified to do business in the State of Washington, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon State's request, Tenant shall provide evidence satisfactory to State confirming these representations.

**18.2 Successors and Assigns.** This Lease binds and inures to the benefit of the Parties, their successors, and assigns.

**18.3 Headings.** The headings used in this Lease are for convenience only and in no way define, limit, or extend the scope of this Lease or the intent of any provision.

**18.4 Entire Agreement.** This Lease, including the exhibits and addenda, if any, contains the entire agreement of the Parties. This Lease merges all prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Property.

**18.5 Waiver.**

- (a) The waiver of any breach or default of any term, covenant, or condition of this Lease is not a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this Lease. State's acceptance of a rental payment is not a waiver of any preceding or existing breach other than the failure to pay the particular rental payment that was accepted.
- (b) The renewal of the Lease, extension of the Lease, or the issuance of a new lease to Tenant, does not waive State's ability to pursue any rights or remedies under the Lease.

**18.6 Cumulative Remedies.** The rights and remedies under this Lease are cumulative and in addition to all other rights and remedies afforded by law or equity or otherwise.

**18.7 Time is of the Essence.** TIME IS OF THE ESSENCE as to each and every provision of this Lease.

**18.8 Language.** The word "Tenant" as used in this Lease applies to one or more persons and regardless of gender, as the case may be. If there is more than one Tenant, their obligations are joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations. The word "Parties" means State and Tenant in the collective. The word "Party" means either or both State and Tenant, depending on the context.

**18.9 Invalidity.** The invalidity, voidness, or illegality of any provision of this Lease does not affect, impair, or invalidate any other provision of this Lease.

**18.10 Applicable Law and Venue.** This Lease is to be interpreted and construed in accordance with the laws of the State of Washington. Venue for any action arising out of or in connection with this Lease is in the Superior Court for Thurston County, Washington.

**18.11 Statutory Reference.** Any reference to a statute means that statute as presently enacted or hereafter amended or superseded.

**18.12 Recordation.** At Tenant's expense and no later than thirty (30) days after receiving the fully-executed Lease, Tenant shall record this Lease in the county in which the Property is located. Tenant shall include the parcel number of the upland property used in conjunction with the Property, if any. Tenant shall provide State with recording information, including the date of recordation and file number. If Tenant fails to record this Lease, State may record it and Tenant shall pay the costs of recording upon State's demand.

**18.13 Modification.** No modification of this Lease is effective unless in writing and signed by both Parties. Oral representations or statements do not bind either Party.

**18.14 Survival.** Any obligations of Tenant not fully performed upon termination of this Lease do not cease, but continue as obligations of the Tenant until fully performed.

**18.15 Exhibits.** All referenced exhibits are incorporated in the Lease unless expressly identified as unincorporated.

THIS AGREEMENT requires the signature of all Parties and is effective on the date of the last signature below.

CITY OF BLACK DIAMOND

Dated: \_\_\_\_\_, 20\_\_

By: REBECCA OLNES

Title: Mayor of the City of Black Diamond

Address: PO Box 599  
Black Diamond, WA 98010-0599

Phone: 360-886-2560

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: \_\_\_\_\_, 20\_\_

By: PETER GOLDMARK

Title: Commissioner of Public Lands

Address: Shoreline District Aquatics  
950 Farman Ave N  
Enumclaw, WA 98022-9282

Approved as to form this  
12 day of March, 2010  
Janis Snoey, Assistant Attorney General

## REPRESENTATIVE ACKNOWLEDGMENT

STATE OF WASHINGTON )  
 ) ss  
County of )

I certify that I know or have satisfactory evidence that REBECCA OLNES is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the MAYOR of THE CITY OF BLACK DIAMOND to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 20\_\_\_\_  
(Seal or stamp) (Signature)

(Print Name)

Notary Public in and for the State of  
Washington, residing at

My appointment expires \_\_\_\_\_



## STATE ACKNOWLEDGMENT

STATE OF WASHINGTON )  
 ) ss  
County of )

I certify that I know or have satisfactory evidence that PETER GOLDMARK 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 COMMISSIONER OF PUBLIC LANDS, and ex officio administrator of the DEPARTMENT OF NATURAL RESOURCES of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 20\_\_

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of  
Washington, residing at

My appointment expires \_\_\_\_\_

## EXHIBIT A

DNR Lease Exhibit for the City of Black Diamond; DNR Aquatic Lease No. 20-087339

SITUATE IN, THE COUNTY OF KING, STATE OF WASHINGTON AND RECORDED  
WITH THE KING COUNTY RECORDER'S OFFICE UNDER RECORDING NUMBER  
2012011290001.

That portion of the State owned aquatic lands of Lake Sawyer, fronting, abutting, or adjacent to  
Government Lot 5, Section 4, Township 21 North, Range 6 East, W.M., in King County,  
Washington

Containing 5,556 square feet, more or less.

**EXHIBIT B**  
**"Permitted Use"**

**1. DESCRIPTION OF PERMITTED USE**

- A. **Existing Facilities.** This lease is for the operation and maintenance of a two-lane boat launch at the intersection of SE 296<sup>th</sup> Street with the west shore of Lake Sawyer. The City of Black Diamond also provides boat trailer parking, picnicking, swimming access, restrooms and general park parking on the adjacent uplands owned by the City.

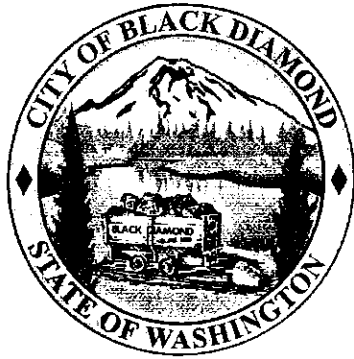
There is limited boat trailer parking available. The City charges a small parking fee for the boat trailer parking area to offset the cost of maintaining the boat launch and parking area.

The boat launch is specifically permitted for launching power boats, small personal watercraft, or any other legally permitted water equipment. The boat launch is not permitted for private activities at the site. Activities that interfere with launching and removal of watercraft from the lake are prohibited except by special permit from the City (e.g. boat launch maintenance activities).

- B. **Proposed Facilities.** Tenant proposes no new facilities

**2. ADDITIONAL OBLIGATIONS**

None



# **CITY OF BLACK DIAMOND**

## **STORMWATER MANAGEMENT PLAN**

### **FOR THE LAKE SAWYER BOAT LAUNCH**

#### **DNR AQUATIC LANDS LEASE 20-087339**

#### **Permitted Use Description**

This lease is for the operation and maintenance of a 2 lane boat launch at the intersection of SE 296<sup>th</sup> Street with the west shore of Lake Sawyer. The City also provides boat trailer parking, picnicking, swimming access, restrooms and general park parking on the adjacent uplands owned by the City. There is limited boat trailer parking available. The City charges a small parking fee for the boat trailer parking area to offset the cost of maintain the boat launch and the parking area

The boat launch specifically is permitted for launching power boats, small personal water craft, or any other legally permitted water equipment. The boat launch is not permitted for private activities at the site. Activities that interfere with the launching and removing of water craft from the lake are prohibited except by special permit from the City of Black Diamond (for example: boat launch maintenance activities).

#### **Best Management Practices**

The City of Black Diamond commits to the following Best Management Practices to comply with Section 2.2 of the agreement:

- The City will maintain garbage collection at the boat launch site
- The City will maintain a Dog feces collection bag dispenser at the site
- The City will maintain and make available restrooms at the site.
- The City will not use fertilizer on the upland recreation areas at the site

- The City will maintain the pervious paver general parking area at the park site
- The City will provide room for BMP education messages from DNR to boaters on a sign at the boat launch (Commentary: once the boats are out on the Lake they are not the City's responsibility)
- The City will sweep the boat ramp approach 2 times per year.

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b>	<b>Agenda Date:</b> May 3, 2012	<b>AB12-028</b>
<b>Resolution No. 12-800, authorizing the purchase of a 2012 Ford Escape for the Master Development Review Team</b>	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	<b>X</b>
Cost Impact:	Police – Jamey Kiblinger	
Fund Source:	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Steve Pilcher	
<b>Attachments: Resolution No. 12-800, supporting documentation</b>		
<b>SUMMARY STATEMENT:</b>  This is for the purchase of a 2012 Ford Escape XLS, 4x4, small light utility/crossover vehicle to be used for the Master Development Review Team. Vehicle is being purchased from the State of Washington Purchasing Contract, (State Bid). (See attached specifications)		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-800, authorizing the purchase of a 2012 Ford Escape for the Master Development Review Team off the state bid.</b>		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 3, 2012		

**RESOLUTION NO. 12-800**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE PURCHASE OF A 2012 FORD  
ESCAPE FOR THE MASTER DEVELOPMENT REVIEW  
TEAM**

**WHEREAS**, the City needs to purchase a vehicle for the Master Development Review Team; and

**WHEREAS**, purchasing vehicles through Washington State Office of Procurement meets the competitive bid requirements; and

**WHEREAS**, a Ford Escape 4 x 4 will provide room for equipment, room for several passengers, and maneuverability around construction sites; and

**WHEREAS**, the Master Developer is required to provide the equipment needed for the Master Development Review Team;

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

**Section 1.** Authorize the Mayor to purchase a 2012 Ford Escape 4 x 4 through the Washington State Office of Procurement.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3<sup>RD</sup> DAY OF MAY, 2012.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Rebecca Olness, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Martinez, City Clerk

Current Contract Information

Contract No. 05810, Utility/Crossover Vehicles

Price Sheets Order Form

Page 1

ONLINE ORDERS MAY BE PLACED AT <https://fortress.wa.gov/ga/inet/vehreg/vehmenu.htm>. TO MINIMIZE PRODUCTION DELAYS ORDER AS EARLY AS POSSIBLE, BEFORE MARCH 31, 2012.

SMALL LIGHT UTILITY/CROSSOVER VEHICLE

VEHICLE TYPE: SMALL LIGHT UTILITY/CROSSOVER VEHICLE TWO WHEEL DRIVE

MAKE/MODEL:

FORD ESCAPE XLS

EQUIPMENT INCLUDED IN NET PRICE

- 2.5 liter 4 cylinder gas engine (171 HP)
- 4 door, 5 passenger seating (cloth reclining buckets, front; folding split rear bench)
- Full length hardtop, full headliner, carpeted Floor Covering
- Automatic overdrive transmission, 6 spd
- Air conditioning
- Light Tinted glass, all around
- P235/70R16 all season steel belted radial tires (1)
- Compact spare tire & wheel, underbody mounted
- Power Brakes, 4 Wheel Antilock System
- Power Steering
- AM/FM Stereo w/CD & MP3
- Four Sets of Coded Keys
- Remote Keyless Entry w/Two Key Fobs w/Integrated Keys Plus Two Separate Keys
- HD rear bumper
- Air Bags, driver & front passenger, side air cushions w/ rollover sensor & side airbags
- Dome, Map and Cargo Lights
- Electric rear window defroster
- Auxiliary Power Points
- Dual power side view mirrors, black
- Intermittent Wipers F&R
- All factory standard equipment including:
  - Cruise Control
  - Electronic Stability Control System
  - Tire Pressure Monitoring System
  - Power Door Locks, Windows & Mirrors
  - Trip, Temp, Tachometer Gauges
  - Tilt Steering Wheel
  - Height Adjustable Front Seat Belts
  - F&R Stabilizer Bar
  - Child Safety Rear Door Locks
  - Washer/wiper rear window
  - 3.51:1 Final drive axle ratio as equipped
  - 3 yr/36,000 mile warranty, Bumper to Bumper
  - 5yr/60,000 Mile Drivetrain

CA Emission Certification LEV2/ULEV2

Gas Mileage City 21 MPG Hwy 28 MPG

Mercury Free Vehicle

Lead Free Wheel Weights

NHTSA CRASH TEST RATING (2010)

FRONTAL (D/P) 5/5

SIDE (F/R) 5/5

ROLLOVER 3

DEALER: Columbia Ford (W403)  
700 7<sup>th</sup> Ave  
Longview WA 98632

DELIVERY: 60-120 Days

DEALER CONTACT: Marie Tellinghuisen or Steve Sari

PHONE: 360-423-4321

EMAIL ADDRESS: [mariet@colford.com](mailto:mariet@colford.com)

FEDERAL TAX ID NO.: 91-0650166

PAYMENT TERMS: \*\$200 Per Vehicle Discount for Payment within 20 days of Delivery, Net 30

**NET PRICE:** (Vehicle equipped as above, delivered to any point within the State of Washington, exclusive of Federal Excise and before 8.2 % Sales Tax Including .3% Vehicle Tax.)

<u>ORDER CODE</u>	<u>VEHICLE DESCRIPTION</u>	<u>ORDER QTY</u>	<u>PRICE EACH</u>	<u>PRICE EXTENSION</u>
2312-062-001	Small Light Utility/Crossover Vehicle (Two Wheel Drive), 2012 Ford Escape XLS (U0C101A)	1	\$16,548.00 *	\$ _____

**NO COST EXTERIOR COLORS:** *INDICATE QUANTITY OF COLOR(S) SELECTED*

White Suede(WS)\_\_\_\_\_, Oxford White (YZ)\_\_\_\_\_, Sterling Grey(UJ)\_\_\_\_\_, Blue Flame (SZ)\_\_\_\_\_, Steel Blue(UN)\_\_\_\_\_, Gold Leaf(UP)\_\_\_\_\_, Ingot Silver(UX)\_\_\_\_\_, Black (UA)\_\_\_\_\_, Toreador Red (FL)\_\_\_\_\_, Lime Squeeze (SQ)\_\_\_\_\_.

Complimentary standard interior color will be selected by Dealer

(1) Tire Chain compatible.



Current Contract Information  
Contract No. 05810, Utility/Crossover Vehicles  
**Price Sheets Order Form**  
Page 2

<b>ORDER CODE</b>	<b>OPTION DESCRIPTION</b>	<b>ORDER QTY</b>	<b>PRICE EACH</b>	<b>PRICE EXTENSION</b>
2312-062-010	Credit for pickup from Selling Dealer (Orders for Eastern WA, Area Code 509) (Deduct)* (DLR)*		\$(130.00)	\$
2312-062-011	Credit for pickup from Selling Dealer (Orders for Western WA, Area Codes 206, 253, 360, 425) (Deduct)* (DLR)*		\$(30.00)	
2312-062-012	Alternative Engine V6 Gas 3.0L V6 FFV Flex Fuel & Keyless Entry Keypad (240 HP, 19 MPG City, 25 MPG Hwy) (Includes XLT Trim, F & R Carpeted Floor Mats, Fog Lamps, Roof Rack Side Rails, Privacy Glass, Power Driver's Seat, outside temp & compass) (99G/200A)		\$2,269.00	
2312-062-013	Cargo Convenience Group (Cover, Roof Side Rails and crossbars) (102A/21R)		\$343.00	
2312-062-014	Daytime Running Lights (942)	1	\$37.00	
2312-062-015	Floor Mats F & R, Rubber (Set 4) (DLR)*		\$62.00	
2312-062-016	Heater, Engine Block (41H)		\$32.00	
2312-062-017	Keys, Set of 2 Instead of 4 (DLR)* (Deduct)		\$(20.00)	
2312-062-018	Mud Flaps, Plastic (Set 4) (DLR)*		\$80.00	
2312-062-019	Remote Keyless Entry, Additional Transmitter coded to Vehicle(No key) (DLR)*		\$59.00	
2312-062-020	Sparetire, Fullsize (Uniroyal AWP) (Mounted) (DLR)*		\$259.00	
2312-062-021	Spotlight, 6 In, Clear Lens, Pillar Mounted Left (DLR)*		\$335.00	
2312-062-022	Stock Vehicle UpCharge, Dealer Stock Vehicle with All Contract Required Equipment, Color White, Delivery Within 7 Days When Available (DLR)*	1	\$250.00	
2312-062-023	Tires, LT225/75X16D All Terrain, 10 ply rating (Set 5) (DLR)*		\$807.00	
2312-062-024	Undercoating (DLR)*		\$145.00	
2312-062-025	Warranty, delayed start Apply online at <a href="http://www.fordwsd.com">www.fordwsd.com</a> (DLR)*		\$0.00	
2312-062-026	Manufacturer To Dealer Order Acknowledgment Document Faxed to Customer (DLR)*		\$0.00	
2312-062-027	4 Wheel Drive Model, Intelligent Four Wheel Drive System , (20 mpg City, 26 Hwy w/4cyl 18/25 w/V6) (tires P235/70R16 a/s owl tires) (State Agencies to Review Governor's Executive Order 05-01 Prior to Ordering) (U9C/U90)	1	\$1,589.00	
2312-062-028	Push bumper, Steel w/horizontal Rubber Push Pads (Setina PB400)(Installed)(DLR)*		\$288.00	
2312-062-029	Remote Keyless Entry, Additional Key w/Integrated Key FOB (DLR)*		\$113.00	

<u>ORDER CODE</u>	<u>OPTION DESCRIPTION</u>	<u>ORDER QTY</u>	<u>PRICE EACH</u>	<u>PRICE EXTENSION</u>
2312-062-030	Fire Extinguisher. 2.5# Dry chemical ABC rated 1/mounting bracket, delivered w/vehicle, uninstalled.		\$38.00	\$
2312-062-031	Flare Kit, 3 Piece Triangle w/storage box for roadside emergency use, delivered w/vehicle, uninstalled.		\$38.00	
2312-062-032	deleted		\$0.00	
2312-062-033	Service Manual, CD		\$225.00	
2312-062-034	Privacy Glass (includes with 2312-062-012, Alternative Engine V6 Gas) (924)		\$234.00	
2312-062-035	Side Step Bars (187)		\$293.00	
2312-062-036	Trailer Towing Package (only available with 2312-062-012, Alternative Engine V6 Gas) (536)		\$336.00	
2312-062-037	Service Manual, Wiring Diagram Only, Paper (DLR)*		\$87.00	
			<b>SUBTOTAL</b>	<b>\$18,424</b>
			<b>+8.2% SST</b>	<b>\$1,510.77</b>
			<b>TOTAL</b>	<b>\$19,934.77</b>