



**CITY OF BLACK DIAMOND**  
**November 19, 2009 Meeting Agenda**  
25510 Lawson St., Black Diamond, Washington

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

**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 253-631-0351. Thank you for attending this evening.

**PUBLIC HEARINGS:**

- |  |            |
|--|------------|
| 1.) <b>AB09-129</b> – 2010 Budget Revenues and Expenditures  | Ms. Miller |
| 2.) <b>AB09-130</b> – Setting Property Tax Levy<br><i>(Council action may follow public hearing)</i> | Ms. Miller |

**APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS: None**

**UNFINISHED BUSINESS: None**

**NEW BUSINESS:**

- |   |               |
|---|---------------|
| 3.) <b>AB09-131</b> – Resolution Authorizing Valley Communication Addendum                        | Ms. Kiblinger |
| 4.) <b>AB09-132</b> – Resolution Authorizing Memorandum of Understanding for Diesel Multiple Unit | Mr. Boston    |
| 5.) <b>AB09-133</b> – Resolution Authorizing Diesel Multiple Unit Interlocal Agreement            | Mr. Boston    |
| 6.) <b>AB09-134</b> – Resolution Authorizing Court Remodel as Complete                            | Mr. Boettcher |
| 7.) <b>AB09-134</b> – Resolution Authorizing Municipal Court Judge Contract                       | Mayor Botts   |

**DEPARTMENT REPORTS:**

**MAYOR'S REPORT:**

**COUNCIL REPORTS:**

**ATTORNEY REPORT:**

**PUBLIC COMMENTS:**

**CONSENT AGENDA:**

- 7.) **Claim Checks** – November 19, 2009 No. 34833 through No. 34892 in the amount of \$121,053.88  
8.) **Minutes** – Council Meeting of November 5, 2009

**EXECUTIVE SESSION:**

**ADJOURNMENT:**

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Ordinance No. 09-924, approving adoption of the voter approved Property Tax lid lift and rate of \$2.15 per \$1,000 of assessed valuation for a total of \$1,205,665 for 2010 to be used for Public Safety including Fire, Police and Emergency</b>	<b>Agenda Date: November 19, 2009</b>		<b>AB09-130</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Leonard Smith		
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller	X	
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact:	Court – Kaaren Woods		
Fund Source: various	Community Devel. – Steve Pilcher		
Timeline: ASAP	Natural Resources – Aaron Nix		
<b>Attachments: Ordinance 09-924 and Levy Certification</b>			
<b>SUMMARY STATEMENT:</b>  <p>Per City Code 3.60.020 the City of Black Diamond voters approved at a November 3, General Election the Property Tax lid lift to fund Public Safety, including Fire, Police and Emergency Services. This six-year replacement lid lift will begin January 2010 at a rate of \$2.15 per \$1,000 of assessed valuation.</p> <p>The assessed valuation for the City of Black Diamond decreased by an average of 15 percent. A tax payer whose home was valued at \$300,000 may now pay on a home with 15 percent less value. Using this basis, this tax payer would see an approximate \$97 per year increase (from \$438 to \$532 a year) for Black Diamond's share of Property Taxes in 2010 or an increase of \$8.08 per month. All of Black Diamond's property tax funds are used for Public Safety.</p> <p>To continue to provided the needed Public Safety funds, the replacement levy included using the CPI-W (June) as the annual limit factor starting in 2011 until 2015. This same limit factor is used in the Fire Department and Police Department contracts and agreements. The levy also proposed to set the last year of the levy (2015) for computing the limitations for future levies.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>			
<b>RECOMMENDED ACTION: MOTION to adopt Ordinance No. 09-924, approving adoption of the voter approved Property Tax lid lift and rate of \$2.15 per \$1,000 of assessed valuation for a total of \$1,205,665 for 2010 to be used for Public Safety including Fire, Police and Emergency Services.</b>			
<b>RECORD OF COUNCIL ACTION</b>			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
November 19, 2009			

**ORDINANCE NO. 09-924**

**AS A RESULT OF PROPOSITION NO. 1, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, INCREASING ITS CURRENT REGULAR PROPERTY TAX LEVY RATE TO \$2.15 PER \$1,000 OF ASSESSED VALUATION, BEGINNING IN 2010**

**WHEREAS**, the City Council, after having reviewed the revenue projections finds that there are not sufficient projected revenues for the City to sustain the Public Safety level of City services without a property tax lid lift; and

**WHEREAS**, the City Council unanimously voted to place a Public Safety Property Tax Levy before the voters for a November 3, 2009 vote; and

**WHEREAS**, Proposition No. 1, a six-year replacement property tax lid lift to fund Public Safety services including Fire, Police and Emergency Services was placed before the voters November 3, 2009; and

**WHEREAS**, the public approved by a simple majority vote the Property Tax Lid Lift to begin in 2010 at \$2.15 per \$1,000 in assessed valuation; and

**WHEREAS**, a Public Hearing was held on November 19, 2009, regarding the City budget and the proposed increase in the levy; and

**WHEREAS**, the City Council has properly given notice of the Public Hearing held November 19, 2009 to consider the City's current expense budget for the 2010 calendar year, pursuant to RCW 84.55.120.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:**

**Section 1.** A regular property tax is hereby levied in the amount of \$2.15 per \$1,000 in assessed valuation, against the value of the properties in the City of Black Diamond for a total of \$1,205,665 in property tax collections for the year 2010. This tax shall be used to support expenditures of the General Fund under RCW 84.69.020.

**Section 2.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Introduced the 19<sup>th</sup> day of November, 2009.

Passed by a majority of the City Council at a meeting held on the 19<sup>th</sup> day of November, 2009.

\_\_\_\_\_  
Mayor Howard Botts

Attest:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Loren D. Combs, City Attorney

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

Effective Date: \_\_\_\_\_



## Levy Certification

**Submit this document to the county legislative authority on or before November 30 of the year preceding the year in which the levy amounts are to be collected and forward a copy to the assessor.**

In accordance with RCW 84.52.020, I, Howard Botts,  
(Name)

Mayor, for Black Diamond, do hereby certify to  
(Title) (District Name)

the King County County legislative authority that the Council  
(Name of County) (Commissioners, Council, Board, etc.)

of said district requests that the following levy amounts be collected in 2010 as provided in the district's  
(Year of Collection)

budget, which was adopted following a public hearing held on 11/19/09:  
(Date of Public Hearing)

Regular Levy: \$1,205,665  
(State the **total** dollar amount to be levied)

Excess Levy: \$0.00  
(State the **total** dollar amount to be levied)

Refund Levy: \_\_\_\_\_  
(State the **total** dollar amount to be levied)

Signature: \_\_\_\_\_

Date: 11/19/09

For tax assistance, visit <http://dor.wa.gov/content/taxes/property/default.aspx> or call (360) 570-5900. To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users may call 1-800-451-7985.

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Resolution No. 09-648, authorizing the Mayor to execute an Addendum to the Agreement for Police Service for Valley Communications for 2010</b>	<b>Agenda Date: November 19, 2009</b>		<b>AB09-131</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		X
	City Administrator –Leonard Smith		X
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Streepy		X
	Finance – May Miller		
	Public Works – Dan Dal Santo		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger	X	
Cost Impact: 0	Court – Kaaren Woods		
Fund Source:			
Timeline:			
<b>Attachments: Resolution No. 09-648, Agreement</b>			
<b>SUMMARY STATEMENT:</b>  This is our yearly addendum to our contract with Valley Communications for Dispatch Services. There is no increase in the rate for 2010.			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 09-648, authorizing the Mayor to execute an addendum to the Agreement for Police Service for Valley Communications for the year 2010.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
November 19, 2009			

**RESOLUTION NO. 09-648**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM TO THE AGREEMENT FOR POLICE SERVICE FOR VALLEY COMMUNICATIONS FOR 2010.**

**WHEREAS**, the City is authorized by Chapter 39.34 RCW to enter into agreements with other governmental jurisdictions; and

**WHEREAS**, currently the City of Black Diamond Police Department contracts with Valley Communications for Dispatch Services;

**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 Addendum to the Emergency Dispatch Agreement for Police Service with Valley Communications for 2010 in the form as attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19<sup>TH</sup> DAY OF NOVEMBER, 2009.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

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



A NATIONALLY ACCREDITED COMMUNICATIONS CENTER

**EXHIBIT "A"**  
**to the**  
**AGREEMENT**  
**by and between**  
**VALLEY COMMUNICATIONS CENTER**  
**and**  
**BLACK DIAMOND POLICE DEPARTMENT**

This **EXHIBIT** is supplemental to the **AGREEMENT** between **VALLEY COMMUNICATIONS CENTER** and **BLACK DIAMOND POLICE DEPARTMENT**

for  
**DISPATCH SERVICES** in order to establish annual rates and fees under the **EMERGENCY DISPATCH AGREEMENT**.

- A.1 This appendix shall remain in effect from **January 1, 2010** thru **December 31, 2010**.
- A.2 The rate shall be **Twenty Seven Dollars and Sixty Seven Cents (\$27.67)** for each dispatchable call.

Signed this **30th** day of **October, 2009**.

  
\_\_\_\_\_  
MAYOR DENIS LAW  
ADMINISTRATIVE BOARD CHAIR

\_\_\_\_\_  
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. 09-649, authorizing the Mayor to execute a Memorandum of Understanding for the Diesel Multiple Unit (DMU) Feasibility and Planning Study</b>	<b>Agenda Date: November 19, 2009</b>		<b>AB09-132</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Leonard Smith		X
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Martinez	X	
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact:	Court – Kaaren Woods		
Fund Source:	Comm. Dev. – Steve Pilcher		
Timeline:			
<b>Attachments: Resolution No. 09-649, Memorandum of Understanding</b>			
<b>SUMMARY STATEMENT:</b>  <p>The Washington State Legislature appropriated \$400,000 for a phase one diesel multiple unit commuter rail study. The proposed Memorandum of Understanding between the Washington State Department of Transportation and the cities of Black Diamond, Maple Valley, Covington and Auburn governs the roles and responsibilities of the parties.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> Public Works committee met on November 12, 2009 to review and recommends adoption.			
<b>RECOMMENDED ACTION:</b> <b>MOTION to adopt Resolution No. 09-649, authorizing the Mayor to execute a Memorandum of Understanding for the Diesel Multiple Unit (DMU) Feasibility and Planning Study.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
November 19,2009			

**RESOLUTION NO. 09-649**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
AUTHORIZING THE MAYOR TO EXECUTE A  
MEMORANDUM OF UNDERSTANDING BETWEEN THE  
WASHINGTON STATE DEPARTMENT OF  
TRANSPORTATION AND THE CITIES OF BLACK  
DIAMOND, MAPLE VALLEY, COVINGTON AND AUBURN  
FOR THE DEISEL MUTIPLE UNIT (DMU) FEASIBILITY  
AND PLANNING STUDY**

**WHEREAS**, in 2009 the Washington State Legislature approved an appropriation to the Washington State Department of Transportation for a feasibility study, to be completed by June 30, 2010; and

**WHEREAS**, the cities, Maple Valley, Covington and Auburn working together with the City of Black Diamond have formed a cooperative relationship with the Washington State Department of Transportation for purposes of utilizing the monies appropriated to the Washington State Department of Transportation, in order to ensure that the feasibility study adequately addresses the needs and concerns of these cities in regards to managing growth and transportation; and

**WHEREAS**, a Memorandum of Understanding has been drafted that sets forth the understanding of these various partners in regards to their roles and responsibilities in working cooperatively to report to the State Legislature by June 30, 2010 according to the mandate of the appropriation;

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

**Section 1.** The Mayor is hereby authorized to execute a Memorandum of Understanding between the Washington State Department of Transportation and the cities of Black Diamond, Maple Valley, Covington and Auburn, 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 19TH DAY OF NOVEMBER, 2009.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

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

**MEMORANDUM OF UNDERSTANDING  
ESTABLISHING A COOPERATIVE RELATIONSHIP BETWEEN  
THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION  
AND  
THE CITIES OF AUBURN, BLACK DIAMOND, COVINGTON, AND  
MAPLE VALLEY  
FOR**

**THE MAPLE VALLEY-COVINGTON-AUBURN DIESEL MULTIPLE UNIT  
(DMU) FEASIBILITY AND PLANNING STUDY.**

This Memorandum of Understanding is made this \_\_\_\_ day of \_\_\_\_\_, between the Washington State Department of Transportation (hereinafter referred to as WSDOT) and the cities of Auburn, Black Diamond, Covington and Maple Valley (hereinafter referred to as partners), regarding a study assessing the feasibility of commuter rail service on tracks owned by the Burlington Northern Santa Fe Railway (hereinafter referred to as BNSF).

**1. Background**

WSDOT is a department of state government with all powers, duties, and functions to plan and coordinate transportation improvements meeting the needs of the State of Washington as provided in RCW 47.01.

The 2009-11 transportation budget passed by the Washington State Legislature included \$400,000 for the WSDOT to conduct a feasibility study of a Diesel-Multiple Unit (DMU) commuter rail service from Maple Valley to Auburn via the BNSF Railway's Stampede Pass line. The specific language in the legislation is as follows:

*\$400,000 of the Motor Vehicle Account – State Appropriation is provided solely for a diesel multiple unit feasibility and initial planning study. The study must evaluate potential service on the Stampede Pass line from Maple Valley to Auburn via Covington. The study must evaluate the potential demand for service, the business model and capital needs for launching and running the line and the need for improvements in switching, signaling, and tracking. A report on the study must be submitted to the Legislature by June 30, 2010.*

The area within the study boundaries has experienced rapid growth and development. Projections indicate that State Route 516, which roughly parallels the BNSF tracks in the corridor, will experience severe traffic congestion in the future as a result of the expected growth. The feasibility of transportation improvements that facilitate the efficient movement of people in the corridor is a question of interest and importance to WSDOT and the partners. The commuter rail service analysis in this study shall include commuter (work-trips) and other passenger use. This study will focus on a clearly defined, short distance travel market that served by a commuter rail type of service.

## **2. Intent of Memorandum of Understanding**

The purpose of this Memorandum of Understanding (hereinafter referred to as MOU) is to define the roles and responsibilities of the WSDOT and the partners, and to reiterate the purpose of the study. The parties to this MOU agree that the attached scope of work defines the study purpose and describes the study deliverables.

It should be emphasized that the scope of the study is limited to assessing feasibility of commuter rail service in the corridor. As such, the study will present findings with regard to cost, ridership, potential revenue sources, and the institutional structure needed for providing commuter rail service. The study will not make a recommendation with regard to the desirability of commuter rail service in the corridor.

## **3. Project Management**

WSDOT will serve as the lead agency for the study. The study will be conducted in close coordination and cooperation with the partners and with input from other entities as necessary and appropriate. WSDOT will be responsible for overseeing and managing the work of consultants retained for this study. The partners will be given the opportunity to participate in the consultant selection process. The partners will be consulted regarding key assumptions used in estimating travel demand, and will be asked to furnish information on land use plans and plans for transportation improvements in the corridor. Every effort will be made to define a DMU commuter rail scenario that is consistent with the comprehensive plans of local jurisdictions in the area, and supportive of state, regional, and local transportation goals.

The partners will function as lead for certain tasks relating to the study, including arranging and facilitating meetings of the staff working group and elected officials working group. The partners will also be responsible for outreach to local communities and elected officials. These tasks will be coordinated with WSDOT.

To ensure a common understanding of project goals and to clarify the roles of the parties a partnering session will be held. This partnering session will be scheduled to promptly follow hiring of the consultant and finalization of the scope of work. This partnering session shall include the project consultant, WSDOT, the Partners and any other relevant stakeholders.

## **4. Funding**

The only source of direct funding for the study is an appropriation from the Washington State Legislature in the amount of \$400,000. WSDOT is responsible for authorizing all work charged to the project budget. WSDOT is responsible for all obligations to the consultants retained for this study and covered under contract Y-9313. The partners are



responsible for study activities carried out by their own staff. No payment between WSDOT and the partners is anticipated or budgeted.

## **5. Involvement of External Parties**

It is likely that input and assistance will be sought from governmental agencies and jurisdictions that are not signatories to this MOU. Though this study does not include an extensive public outreach element it is expected that private parties and organizations will be interested in the study and may wish to provide input. Because this is only a feasibility study and not a specific proposal no formal process for soliciting and responding to public comment is included in the scope. However, WSDOT and the partners will be receptive to relevant unsolicited input that may be provided, to the extent possible.

## **6. Additional Signatories**

It is possible that additional parties may wish to become signatories to this MOU. None of the provisions in this MOU should be construed as precluding additional signatories if their involvement would help advance the study objectives.

## **7. Project Schedule**

The timeline established by the legislature calls for delivery of a final report no later than June 30, 2010. WSDOT and the partners understand the critical importance of completing this study on schedule and commit to reviewing and commenting on draft technical memoranda and other work products as expeditiously as possible. It is expected that a draft version of the final report will be produced no later than May of 2010. The partners will be afforded the opportunity to review and comment on the draft report. WSDOT has approval authority of the final report and will make every effort to incorporate partner concerns and revisions into the final report.

## **8. Dispute Resolution**

It is the intention of WSDOT and the partners to approach this study with a common understanding of the project scope and purpose. With that as a starting point, and by working in a cooperative fashion, it is hoped that disputes among the parties will be avoided. However, in the event of disagreement among any of the parties, every effort will be made to promptly resolve any differences by working through the lead staff of each of the agencies.

## **9. Termination**

This MOU may be terminated at any time upon mutual consent of the parties, in writing.

## 10. Endorsement

In witness whereof, the undersigned parties hereby agree to the terms and conditions of this MOU as of the date written on the first page above.

For the City of Auburn

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Peter B. Lewis, Mayor

For the City of Black Diamond

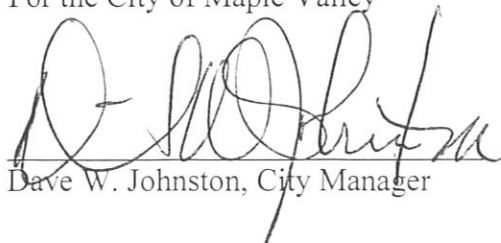
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Howard L. Botts, Mayor

For the City of Covington

  
Derek Matheson, City Manager

For the City of Maple Valley

  
Dave W. Johnston, City Manager

For Washington State Department of Transportation

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Chris R. Picard  
Manager, Urban Planning Office

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Resolution No. 09-650, authorizing the Mayor to execute an Interlocal Agreement for the Southeast King County Commuter Rail Transit Centers Project</b>	<b>Agenda Date: November 19, 2009</b>		<b>AB09-133</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Leonard Smith		X
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Martinez	X	
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact:	Court – Kaaren Woods		
Fund Source:	Comm. Dev. – Steve Pilcher		
Timeline:			
<b>Attachments: Resolution No. 09-650, Interlocal Agreement</b>			
<b>SUMMARY STATEMENT:</b> <p>In July of 2008 the cities of Black Diamond, Maple Valley and Covington held a joint Council meeting of the legislative bodies, which included a presentation from the City of Maple Valley regarding the use of Diesel Multiple Units (DMU). This idea was strongly embraced by the three communities and a working partnership followed.</p> <p>The proposed Interlocal Agreement accomplishes several goals, 1) designates the City of Maple Valley as the fiscal agent under the Agreement, 2) establishes terms for acquisition of property, termination, distribution of property acquired, 3) formalizes the two working groups of staff and elected's and describes the role of each, and 4) establishes a method for other cities to become partners with Black Diamond, Maple Valley, and Covington for purposes of exploring the feasibility of a commuter rail option along the Stampede Pass rail line.</p> <p>The cities of Maple Valley and Covington have already authorized their city manager's to execute both agreements.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Public Works Committee met on November 12, 2009 to review and recommend Council adoption.			
RECOMMENDED ACTION: <b>MOTION to adopt Resolution No. 09-650, authorizing the Mayor to execute an Interlocal Agreement with the cities of Maple Valley and Covington for the Southeast King County Commuter Rail and Transit Centers Project.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
November 19, 2009			

**RESOLUTION NO. 09-650**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
AUTHORIZING THE MAYOR TO EXECUTE AN  
INTERLOCAL AGREEMENT WITH THE CITIES OF MAPLE  
VALLEY AND COVINGTON FOR THE SOUTHEAST KING  
COUNTY COMMUTER RAIL AND TRANSIT CENTERS  
PROJECT**

**WHEREAS**, the cities of Black Diamond, Maple Valley and Covington formed a working partnership in order to seek funding for a feasibility study for a commuter or passenger rail option along the Burlington Northern Santa Fe rail line; and

**WHEREAS**, in 2009 the Washington State Legislature approved an appropriation to the Washington State Department of Transportation for a feasibility study, to be completed by June 30, 2010; and

**WHEREAS**, the cities of Maple Valley and Covington requested federal funding for a feasibility study for the in the fiscal year 2010 federal budget; and

**WHEREAS**, Congressman Reichert requested \$360,000 for a feasibility study for the Southeast King County Commuter Rail and Transit Centers Project; and

**WHEREAS**, the cities of Black Diamond, Maple Valley and Covington desire to formalize their working partnership and to designate the City of Maple Valley as fiscal agent for purposes of receipt of grant monies;

**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 Interlocal Agreement with the cities of Maple Valley and Covington for the Southeast King County Commuter Rail and Transit Centers Project, 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 19<sup>TH</sup> DAY OF NOVEMBER, 2009.**

CITY OF BLACK DIAMOND:

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Howard Botts, Mayor

Attest:

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Brenda L. Martinez, City Clerk

## INTERLOCAL AGREEMENT

### BETWEEN THE CITY OF MAPLE VALLEY, THE CITY OF BLACK DIAMOND, AND THE CITY OF COVINGTON FOR THE SOUTHEAST KING COUNTY COMMUTER RAIL AND TRANSIT CENTERS PROJECT

#### Recitals

WHEREAS, on July 23, 2008 the cities of Maple Valley, Black Diamond and Covington ("Parties") held a joint Council meeting of the legislative bodies of the three cities in Black Diamond; and

WHEREAS, the agenda for the July 23, 2008 joint meeting included a presentation from the City of Maple Valley regarding the use of Diesel Multiple Units (DMU); and

WHEREAS, the Cities of Maple Valley, Black Diamond and Covington formed a working group of staff and a working group of elected officials to explore the idea of using DMU's on the existing Burlington Northern Santa Fe line to create a commuter rail connection from Maple Valley, through Covington, into Auburn; and

WHEREAS, the Cities of Auburn and Enumclaw were invited to join the elected officials working group, Auburn's Mayor has offered an employee to assist the elected officials working group's efforts, and Enumclaw's Mayor has offered his support and encouragement; and

WHEREAS, the Cities of Maple Valley, Black Diamond and Covington successfully lobbied the Washington State Legislature during the 2009 Legislative Session to fund a feasibility study for implementation of the SE King County Commuter Rail and Transit Centers Project ("Project") in Southeast King County; and

WHEREAS, the 2009 Washington Legislature approved \$400,000 for a feasibility study for the Project in Section 220 of the Transportation budget; and

WHEREAS, the Cities of Maple Valley and Covington have taken a leadership role in regards to developing the working groups for the Project, and lobbying both the State of Washington Legislature and the federal government through Congressman Reichert, and Senators Murray and Cantwell; and

WHEREAS, an appropriation for the Project has been requested by Congressman Reichert for fiscal year 2010 in the Transportation, Housing and Urban Development budget; and

WHEREAS, the Cities of Maple Valley, Black Diamond and Covington desire to formalize their working relationship through an interlocal agreement, recognizing that

joint grant monies may be received for the Project that will need to be managed and properly accounted for; and

WHEREAS, the State of Washington provides legal authority for governments to engage in joint or cooperative undertakings in Ch. 39.34 RCW.

Now, therefore, the parties mutually agree to the terms set forth below:

Terms:

1. Purpose. The primary purpose of this Agreement is to create an agreement between the City of Maple Valley and the Cities of Black Diamond and Covington ("Parties") for the receipt and distribution of joint grant funds from state and/or the federal government or from any private entity in support of the project to be known as "Southeast King County Commuter Rail and Transit Centers Project." A secondary purpose of this agreement is to formalize an already existing working relationship between the Parties to continue the working groups of staff and elected officials, and to continue to seek funding sources to realize the vision of creating a commuter rail link for the citizens of Maple Valley and Covington and the surrounding communities in Southeast King County.

2. Organization. No separate legal entity is created by this Agreement. The City Managers of Maple Valley and Covington shall be the administrators of this Agreement.

3. Duration. This Agreement shall be effective through December 31, 2010 and shall be automatically renewed for one year periods each January 1st beginning in 2011 unless terminated in writing according to Section 4, herein.

4. Fiscal Agent.

A. The City of Maple Valley is designated as the fiscal agent under this Agreement. As fiscal agent, the City of Maple Valley will be designated as such on all joint grant applications submitted by the Parties to any State or federal agency, or to any profit or nonprofit entity, and will assume all obligations associated with the role of fiscal agent. It is agreed by the Parties that any grant application submitted by any Party to any State or federal agency for this project prior to the Parties' execution of this Agreement shall be subject to the provisions of this Agreement, and that Maple Valley will be the recipient of those funds should they be awarded. Should joint grant monies be awarded, the City of Maple Valley will be the recipient of the monies, and will deposit the monies into a separate interest bearing account to be known as the "SE King County Commuter Rail Account." Should grant moneys be received in advance of payments made pursuant to this Agreement, interest revenue at the State of Washington Local Government Investment Pool (LGIP) rate shall be added to the account. Should grant monies be received on a cost reimbursement basis, interest expense at the State of Washington Local Government Investment Pool (LGIP) rate shall be recorded as an additional cost for payments made pursuant to this Agreement prior to reimbursement. If the grantor agency does not allow interest expense as a use of grant funds or if it disallows any

additional costs, the Parties agree to reimburse the City of Maple Valley for their proportionate share of the interest expense based on a percent of their State certified 2010 population. The City of Maple Valley will be identified as the fiscal agent in any contracts awarded to third parties for whom joint grant monies will be used for payment. All contracts awarded to carry out the intent of this Agreement will be awarded by the City of Maple Valley. The City of Maple Valley will pay all invoices for services and/or purchases made from this account. The City of Maple Valley will provide quarterly reports of expenditures and revenues to the City Managers of Maple Valley and Covington. The City of Maple Valley will be responsible for administering the SE King County Commuter Rail Account in accordance with principles and guidelines established by the Washington State Auditor.

1. Contracts over \$7,500 will require the mutual assent of the City Managers of the Cities of Maple Valley and Covington and the Mayor of the City of Black Diamond prior to award of the contract. Such assent shall be provided in writing to the Finance Director for the City of Maple Valley. Contracts over \$25,000 shall be subject to approval by the City Council of the City of Maple Valley pursuant to adopted contracting policies. Should those adopted policies be amended, the policies in effect at the time of the contract award shall govern.

B. The City of Maple Valley will receive two percent (2%) of joint grant monies awarded to pay for the administrative costs of administering joint grant funds, paying accounts receivable, and carrying out other administrative duties as fiscal agent.

5. Termination. This Agreement may be terminated by any Party, as to that Party only, by providing written notice of intent to terminate to the other Parties ninety (90) days in advance of the date of termination. If the Cities of Black Diamond or Covington terminates this Agreement, the City of Maple Valley shall continue to administer joint grant funds applied for and received during the period of time prior to the termination date. The notice of intent to terminate shall propose a disposition of personal property acquired under this Agreement, as well as a method for the continued administration of joint grant funds on receipt by the City of Maple Valley, by including a draft Termination Agreement with its notice of intent to terminate. A party that provides notice of intent to terminate its participation in this Agreement shall also notify any granting agency for which it has applied for grant funding of its intent to terminate its participation in this Agreement. This Agreement may be terminated at any time by the written agreement of all Parties.

6. Acquisition and Disposition of Personal and Real Property.

A. Should a party to this Agreement acquire personal property in the course of carrying out the purposes of this Agreement, the following will occur:



1. Such property shall be identified by common name, brand name, and serial number if applicable, and all associated parts, implements or attachments will be separately identified; and

2. Such property shall be valued according to its purchase price (if new) or fair market value (if not new).

3. After the property has been identified and valued, a bill of sale shall be executed in order to sell the property to the City of Maple Valley for purposes of insuring the item. As fiscal agent under this Agreement, the City of Maple Valley will hold the property. The original bill of sale shall be provided to the City of Maple Valley, with copies to document listing the above information shall be created with copies provided to the City Managers of Maple Valley and Covington and the Mayor of Black Diamond. The sales price paid by the City of Maple Valley for the item will be no more than the purchase price paid (if new); or the fair market value (if not new). Funds paid by the City of Maple Valley for any item of personal property shall be paid from the SE King County Commuter Rail Account.

4. The party that provides notice of intent to terminate this Agreement is under an obligation to propose a Termination Agreement for the disposition of personal property as well as the continued administration of joint grant funds on receipt by the City of Maple Valley, pursuant to Section 4, herein.

5. Should a party seek to terminate this Agreement the City of Maple Valley will provide an accounting of personal property it holds under this Agreement, as well as an accounting of joint grant funds on receipt and contracts executed under the authority of this Agreement to the City Manager of Covington and the Mayor of Black Diamond. The City Managers/City Administrators will meet to discuss the proposed Termination Agreement with the goal of reaching resolution on the terms of such Agreement. If the City Managers/City Administrators cannot reach agreement on the proposed terms of a Termination Agreement, each party shall choose one elected official from each city to meet jointly with each City Manager/City Administrator to resolve the matter. If, after the City Managers/City Administrators meet with the elected officials, no resolution can be reached, the Parties agree to binding arbitration through the American Arbitration Association, with each party being solely responsible for its costs and any associated legal fees.

B. No party anticipates acquiring real property under this Agreement. Should real property need to be acquired, the Parties will execute a written amendment to this Agreement.

7. Staff Working Group. The Parties will assign staff to a working group to advance the purposes of this Agreement. The staff working group will consist, at a minimum, of the City Managers of the Cities of Maple Valley and Covington, and/or their designees and the City Administrator of Black Diamond. By mutual agreement of the City Managers/City Administrator, the staff working group may consist of staff from other Southeast King County cities with an interest in the DMU project, and may consist of consultants under contract to either party. The purpose of the staff working group will be to explore funding opportunities and prepare grant applications to carry out the purposes of this agreement; to work with third parties involved in the award of monies from the



2009 Washington State Legislature for the feasibility study; to prepare lobbying strategies; to form working partnerships with regional, state and/or federal agencies involved in transit operation and development; to mutually agree on consultant contracts and other contracts to be let by the City of Maple Valley as fiscal agent under this Agreement; to carry out the day to day operations involved in achieving the purposes of this Agreement, and to perform other duties by mutual agreement of the City Managers/City Administrator.

8. Elected Officials Working Group. The Parties will designate staff assistance from their respective jurisdictions to an elected officials working group. The elected officials working group will consist of two elected officials from the City of Maple Valley, two elected officials from the City of Black Diamond and two elected officials from the City of Covington, appointed by their respective legislative bodies. The elected officials working group, at its discretion and by mutual agreement of all the members, may invite other elected or appointed officials to join the working group on either a permanent or occasional basis and may, similarly, invite regional, state, federal or private entity agents to join the working group. The elected officials working group will endeavor to meet monthly. The elected officials working group's purpose will be advisory to the Parties' legislative bodies on policy matters and to the staff working group on administrative matters.

9. Records Maintenance.

A. All Parties shall maintain books, records and documents that sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the other party, its authorized representative, or the State Auditor. Each party will retain records according to the State Archivist's retention schedule for the type of records involved.

B. The City of Maple Valley shall retain all books, records, documents and other materials relevant to its role as fiscal agent under this agreement for six (6) years after its expiration as fiscal agent. The City of Maple Valley agrees that the City of Covington and the City of Black Diamond's authorized representatives shall have full access and right to examine any of said materials at all reasonable times during said period. Advance notice of the request to inspect records shall be provided to the City of Maple Valley as a courtesy and to allow time to gather records which may be archived.

10. Indemnification and Liability.

A. Each party shall indemnify and hold all other parties and their agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the arising out of, in connection with, or incident to the execution of this Agreement; provided, however, that if such claims are

caused by or result from the concurrent negligence of any party, this indemnity provision shall be valid and enforceable only to the extent of the negligence of that party; and provided further, that nothing herein shall require any party to hold harmless or defend any other party, its agents, employees and/or officers from any claims arising from the sole negligence of another party, its agents, employees, and/or officers. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to any party by reason of entering into this Agreement except as expressly provided herein.

11. Notice. Any notice required under this Agreement shall be sent via first class mail, return receipt requested, to the person and address identified in this Section. Such notice may also be sent via facsimile, or as a .pdf file attached to an email addressed to the person identified in this Section, but such notice shall be considered supplemental and shall not serve as required notice. Required notices under this Agreement shall be sent to:

**City of Maple Valley:**

David W. Johnston, City Manager  
P.O. Box 320  
Maple Valley, WA 98038

**City of Covington:**

Derek Matheson, City Manager  
16720 SE 271<sup>st</sup> Street  
Suite 100  
Covington, WA 98042

**City of Black Diamond:**

Gwen Voelpel, City Administrator  
P.O. Box 599  
Black Diamond, WA 98010

12. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

13. Counterparts. This Agreement shall be executed in counterparts, each of which shall be deemed an original, signed by the City Manager or other authorized person representing each party after each party's respective City Council has authorized execution of the same.

14. Amendments. This Agreement may be amended or modified only by the unanimous consent of the Parties, and shall be in writing and be executed in the same manner as the original Agreement, after authorization for the amendment by each party's City Council.

It is contemplated that another City or Town may become a later-added party to this Agreement. Exhibit A to this Agreement constitutes a form Addendum that may be utilized by another City or Town to facilitate this process. The form Addendum must be authorized by the City or Town Council of the City or Town that desires to become a party to this Agreement. Each City that is already a party to this Agreement must receive a signed original of the Addendum. Execution of the form Addendum by a later-added party will not require further action by entities who are already signatories to the Agreement.

15. No Third Party Beneficiaries. This Agreement is entered into for the sole benefit of the Parties, their successors and assigns, and no other individual, entity or agency shall have any right of action under the terms of this Agreement.

16. Attorney Fees and Costs. If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

17. Severability.

A. If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

18. Entire Agreement: Waiver. This Agreement contains a complete integrated understanding and agreement between the Parties and supersedes any understanding, agreement, or negotiations whether oral or written not set forth herein or in any written amendments hereto duly executed by both parties. It is also agreed by the Parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

**CITY OF  
MAPLE VALLEY**

**CITY OF  
COVINGTON**

**CITY OF  
BLACK DIAMOND**

  
David W. Johnston  
City Manager

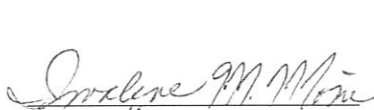
  
Derek M. Matheson  
City Manager


\_\_\_\_\_  
Howard Botts  
Mayor

ATTEST:

ATTEST:

ATTEST:

  
Irvalene C. Moni  
City Clerk


  
Sharon Scott  
City Clerk


\_\_\_\_\_  
Brenda Martinez  
City Clerk

Approved as to form:

Approved as to form:

Approved as to form:

  
Christy A. Todd  
City Attorney

  
Sara Springer  
City Attorney

\_\_\_\_\_  
Loren Combs  
City Attorney

Attachments:

Authorizing City of Maple Valley Resolution R-09-713

Authorizing City of Black Diamond Resolution \_\_\_\_\_

Authorizing City of Covington Resolution N/A

## EXHIBIT A

### FORM ADDENDUM TO ADD A PARTY TO THE SOUTHEAST KING COUNTY COMMUTER RAIL AND TRANSIT CENTERS PROJECT

WHEREAS, the Cities of Maple Valley, Black Diamond and Covington have executed an Interlocal Agreement ("Agreement") for facilitating grant the administration of grant funding relating to the Southeast King County Commuter Rail and Transit Centers Project; and

WHEREAS, the Agreement contemplated that other cities or towns may later desire to become a party to the Agreement; and

WHEREAS, the City [or Town] of \_\_\_\_\_ desires to become a party to the Agreement; and

WHEREAS, the City [or Town] Council of the City [or Town] of \_\_\_\_\_ has considered the terms of the Agreement and by Resolution has authorized the City Manager [or City Administrator or Mayor] of the City [or Town] of \_\_\_\_\_ to execute this Addendum to the Agreement in order to become a signatory to the Agreement;

NOW, THEREFORE, be it Resolved by the City [or Town] Council of the City [or Town] of \_\_\_\_\_ as follows:

1. Authorization. The City Manager [or City Administrator or Mayor] is hereby authorized to execute this Addendum to the Interlocal Agreement between Maple Valley, Black Diamond and Covington for the Southeast King County Commuter Rail and Transit Centers Project in order that the City [or Town] of \_\_\_\_\_ becomes a signatory to that Agreement. A copy of the Agreement is filed with the City Clerk.

PASSED BY THE CITY [or Town] COUNCIL OF \_\_\_\_\_ THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
[NAME OF AUTHORIZED SIGNATORY]

ATTEST:

\_\_\_\_\_  
City [or Town] Clerk

Authorizing Resolution Number: \_\_\_\_\_

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Resolution No. 09-651, accepting the Court remodel project according to the contract with STM as complete</b>	<b>Agenda Date: November 19, 2009</b>		<b>AB09-134</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Leonard Smith		
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher	X	
	Economic Devel. – Andy Williamson		
	Police – Chief Kiblinger		
Cost Impact: \$11,138.02	Court – Kaaren Woods		
Fund Source: Real Estate Excise Tax	Natural Resources – Aaron Nix		
Timeline: approx. 45 days to close out			
<b>Attachments: Resolution No. 09-651, Scope of Work, Original Agenda Bill</b>			
<b>SUMMARY STATEMENT:</b>  <p>The scope of work identified in the contract with STM has been completed and in addition \$1,106 of change orders as follows:</p> <ol style="list-style-type: none"> <li>1.) to cover the cost of wiring that was needed to meet code requirements</li> <li>2.) at the request of the judge a door was added to separate the office from the Police Department access hallway</li> <li>3.) a code requirement change of a 2 ft.-8 inch door to a 3 ft. door</li> </ol> <p>This formal action by the Council starts a 45-day waiting period to where an outside vendor, supplier, or laborer would have an opportunity to file a claim against this project pursuant to RCW 60.28.011 (2). After 45 days the City can then release their retainage once the following items are received:</p> <ol style="list-style-type: none"> <li>1.) and affidavit on no liens</li> <li>2.) a release from the Department of Revenue that all taxes have been paid</li> <li>3.) and a release from any claims from the Department of Labor and Industries</li> </ol>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 09-651, accepting the Court and Jury room remodel project as complete.</b>			
<b>RECORD OF COUNCIL ACTION</b>			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
November 19, 2009			

**RESOLUTION NO. 09-651**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
ACCEPTING THE COURT AND JURY ROOM REMODEL  
PROJECT AS COMPLETE**

**WHEREAS**, the City awarded the Court and Jury room remodel project to STM Construction Company on April 23<sup>rd</sup>, 2009; and

**WHEREAS**, STM Construction has completed the remodel work according to the contract;

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

**Section 1.** The City hereby accepts the Court and Jury Room remodel project according to the contract with STM Construction as complete.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF NOVEMBER, 2009.**

CITY OF BLACK DIAMOND:

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Howard Botts, Mayor

Attest:

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Brenda L. Martinez, City Clerk







# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Resolution No. 09-586, authorizing the Mayor to accept STM Construction Company as the lowest bidder and to authorize the Court remodel project</b>	Agenda Date: April 23, 2009		AB09-028a
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator – Gwen Voelpel		X
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Streepy		
	Finance – May Miller		
	Public Works – Seth Boettcher	X	
	Economic Devel. – Andy Williamson		
	Police – Chief Kiblinger		
Timeline: April 30, 2009 Completion	Court – Kaaren Woods		
	Natural Resources – Aaron Nix		
<b>Attachments: Resolution No. 09-586, Contract, Copy of bids</b>			
<b>PROJECT DESCRIPTION:</b>  <p>We are removing a wall in the court office and replacing it six feet into the jury room to create more office space. We are removing north entry and police squad room entry and enlarging the court office. We will frame new door entry at NE corner of court office and build a new wall and walk-up counter. Existing window will be moved to new counter area. Jury room needs sheetrock on upper south wall to bring it up to code. Two solid core doors will be installed at both entries to jury room for added privacy. South wall in court office has wallpaper. A ¼ inch cover of sheetrock will be added to cover that. New lights will be installed in jury room. North wall in jury room will be stripped and new sheetrock added. A trap door or pull down stairs will be installed above jury room for access and storage. There will also be some trim work and painting. This project is included in the City's 2008-2013 Capital Improvement Plan.</p> <p><b>BID PROCESS:</b> This work comes under the category of Limited Public Works Project Process. RCW 39.04.155(3) BDMC 2.90.030 (G). Staff solicited bids from local contractors on our small works roster. We received three bids and are recommending the award go to the low bidder, STM Construction located in Black Diamond for \$9,927.75.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 09-586, authorizing the Mayor to accept STM Construction Company as lowest bidder and execute a contract for the court remodel work and not to exceed \$9,927.75.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
March 19, 2009	Postponed to a future meeting		
April 23, 2009			

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Resolution No. 09-652, confirming the Mayor's appointment of Steve Rosen as Municipal Court Judge and authorizing the Mayor to execute a Professional Services Agreement</b>	<b>Agenda Date: November 19, 2009</b>		<b>AB09-135</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Leonard Smith		
	City Attorney – Loren D. Combs		X
	City Clerk – Brenda L. Martinez	X	
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact:	Court – Kaaren Woods		
Fund Source:	Comm. Dev. – Steve Pilcher		
Timeline:			
<b>Attachments: Resolution No. 09-652, Agreement, RCW 3.50.040</b>			
<b>SUMMARY STATEMENT:</b>  <p>Per RCW 3.50.040 municipal court judges are appointed by the Mayor, subject to City Council confirmation, for four-year terms commencing on January 1 of the year. In March 2008 Steve Rosen was appointed and confirmed to fill the remainder of the unexpired term vacated by Anthony Platter.</p> <p>It is the Mayor's desire to re-appoint Mr. Rosen as the City's Municipal Court Judge for a four- year term expiring through December 31, 2013.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Recommend Council approval.			
RECOMMENDED ACTION: <b>MOTION to adopt Resolution No. 09-652, confirming the Mayor's appointment of Steve Rosen as Municipal Court Judge and authorizing the Mayor to execute a Professional Services Agreement</b>			
<b>RECORD OF COUNCIL ACTION</b>			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
November 19, 2009			

**RESOLUTION NO. 09-652**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
CONFIRMING THE MAYOR'S APPOINTMENT OF STEVE  
ROSEN AS MUNICIPAL COURT JUDGE AND  
AUTHORIZING THE MAYOR TO EXECUTE A  
PROFESSIONAL SERVICES AGREEMENT**

**WHEREAS**, municipal court judges are appointed by the Mayor, subject to City Council confirmation, for four-year terms commencing on January 1 of the year; and

**WHEREAS**, Steve Rosen was appointed by the Mayor as the City of Black Diamond's judge in March 2008 for a term ending through December 31, 2009; and

**WHEREAS**, the Mayor desires to re-appoint Mr. Rosen as the City's Municipal Court Judge; and

**WHEREAS**, the Council supports the Mayor's appointment of Mr. Rosen and finds the proposed agreement to be fair and reasonable;

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

**Section 1.** The City Council of the City of Black Diamond, Washington, does hereby confirm the Mayor's appointment of Steve Rosen as Municipal Court Judge through December 31, 2013, and authorizes the Mayor, on behalf of the City, to execute a Professional Services Agreement 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 19TH DAY OF NOVEMBER, 2009.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

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

## MUNICIPAL COURT JUDICIAL SERVICES AGREEMENT

This agreement is by and between the City of Black Diamond (“the City”) and Steven G. Rosen (“Rosen”), and is dated the 19th day of November, 2009.

### RECITALS

- A. The City operates a Municipal Court.
- B. The City desires to reappoint Rosen as the judge of its Municipal Court.
- C. Rosen is willing and able to continue to serve as the City’s Municipal Court Judge.

Now, therefore, in consideration of the mutual promises and covenants set forth below, the sufficiency of which is acknowledged by the parties, it is agreed as follows:

1. **Reappointment** – Effective January 1, 2010, the City reappoints Rosen to be the judge of its Municipal Court.
2. **Term** – The term of this agreement shall be from January 1, 2010 through December 31, 2013.
3. **Duties** – Rosen shall perform the functions required by the City’s ordinances, the constitutions and laws of the state of Washington and the United States, and all other applicable laws and treaties. Rosen shall abide by the Rules of Judicial Conduct as promulgated by the Washington Supreme Court. Rosen shall at all times maintain his status as a licensed attorney in the state of Washington in the status of either active or judicial. Rosen shall make himself available for trials, arraignments, and bail hearings as necessary, and shall also make himself available for telephonic and facsimile based probable cause determinations. Rosen shall have the responsibility to appoint Pro Tem Judges and assure their presence if he is absent. Rosen shall also use his best efforts to improve the City’s Court by advancing the causes of justice, impartiality, fairness and efficiency in all of the Court’s business.
4. **Compensation** – The City shall compensate Rosen at the flat rate of \$3600.00 per month for all his time, both judicial and administrative. The rate of compensation may be adjusted annually by the agreement of the parties, in writing.
5. **Status** – Rosen will be an independent contractor, and shall pay all of his own withholding taxes, social security taxes, and any other payroll taxes.

6. **Termination** – This agreement shall be in effect during the term specified in paragraph two unless terminated by mutual agreement or according to law. The City shall release Rosen from his obligations under this contract if Rosen accepts a full time judicial appointment, in which case Rosen will release the City from its obligations.
7. **General Rule 29** – The parties agree that the provisions of Washington State Rules of Court General Rule 29, which governs the election, term, vacancies, removal, selection, responsibilities and authorities of presiding judges in courts of limited jurisdiction, shall be applicable to all court operations and personnel.
8. **Mediation and Arbitration** – Should any dispute arise between the parties, they disputed matter shall be submitted to mediation using a mediator from JAMS (Seattle office), and following the mediator selection process and mediation rules followed by JAMS. The parties shall each pay their own costs associated with mediation and shall each pay one half of the JAMS and mediator's fees. If the mediation is unsuccessful, then the matter, at either party's request, shall be submitted to binding arbitration in accordance with the Uniform Arbitration Act, Chapter 7.04A RCW. The substantially prevailing party shall be entitled to recover their costs and attorneys fees incurred in the arbitration, and the substantially non-prevailing party shall pay the cost of the arbitration, including the arbitrator's fee.

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Steven G. Rosen

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Date

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Howard Botts, Mayor

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Date