



CITY OF BLACK DIAMOND
December 6, 2012 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 360-886-5700. Thank you for attending this evening.

PUBLIC HEARINGS: None

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

- 1.) **AB12-093** – Confirming Mayor’s Appointment to Planning Commission Mayor Olness

UNFINISHED BUSINESS:

NEW BUSINESS:

- 2.) **AB12-094** – Resolution Authorizing 1st Addendum to Agreement for Prosecution Services Mr. Butkus
3.) **AB12-095** – Resolution Authorizing Interlocal Agreement for Tiburon Interface Chief Kiblinger
4.) **AB12-096** – Resolution Accepting 2012 Roadway Grind, Patch and Crack Sealing Project Mr. Williamson

DEPARTMENT REPORTS:

MAYOR’S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 5.) **Claim Checks** – December 6, 2012 Check No. 39021 through No. 39075 in the amount of \$195,027.30
6.) **Minutes** – Council Minutes of November 15, 2012 and Council Workstudy Notes of November 26, 2012

EXECUTIVE SESSION: To discuss with Legal Counsel potential litigation pursuant to RCW 42.30.110(1)(i)

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Confirmation of Mayor's Appointment to the Planning Commission	Agenda Date: December 6, 2012		AB12-093
	Department/Committee/Individual		
	Mayor Rebecca Olness	X	
	City Administrator – Pete Butkus		
	City Attorney – Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Andy Williamson		
	Nat Resources/Parks – Aaron Nix		
	Police – Jamey Kiblinger		
Cost Impact: NA	Court – Stephanie Metcalf		
Fund Source: NA	Comm. Dev. – Steve Pilcher		
Timeline: NA			
Attachments: None			
SUMMARY STATEMENT: <p>In October 2012, staff advertised for an upcoming vacancy on the Planning Commission, which was created by the term expiration of Position #5. (Darryl Buss, who currently sits in Position #5, has indicated he would not seek re-appointment). Four applications were received and reviewed by the Mayor, Councilmember Deady, Planning Commission Chair Keith Watson, and Senior Planner Stacey Welsh. Interviews were conducted for three of the applicants (one applicant withdrew from further consideration). The Mayor is seeking Council confirmation of her appointment of Jim Kuzaro to Position #5 of the City of Black Diamond Planning Commission. This will be a four year term with the effective date of the appointment being January 1, 2013.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: NA			
RECOMMENDED ACTION: MOTION to confirm the Mayor's appointment of Jim Kuzaro to Position #5 of the City of Black Diamond Planning Commission, with effective date of the appointment being January 1, 2013.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
December 6, 2012			

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 12-841, authorizing the Mayor to execute the First Addendum to a Professional Services Agreement with Kara Murphy Richards regarding Prosecuting Attorney Services.	Agenda Date: December 6, 2012	
	AB12-094	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –Pete Butkus	X
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
Cost Impact: Reduction for 2013 of \$22,400	Police – Jamey Kiblinger	
Fund Source: GF	Court – Stephanie Metcalf	
Timeline: For Budget Year 2013	Comm. Dev. – Steve Pilcher	
Attachments: Proposed Resolution No. 12-841;Addendum No. 1;Memorandum; Agreement		
SUMMARY STATEMENT: As a part of 2013 Budget development, an agreement was reached with the City Prosecutor to reduce the cost of the service.		
COMMITTEE REVIEW AND RECOMMENDATION: N/A		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-841, authorizing the Mayor to execute the First Addendum to a Professional Services Agreement with Kara Murphy Richards regarding Prosecuting Attorney Services.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 6, 2012		

RESOLUTION NO. 12-841

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, WASHINGTON AUTHORIZING THE
MAYOR TO EXECUTE THE FIRST ADDENDUM TO THE
PROFESSIONAL SERVICE AGREEMENT WITH KARA
MURPHY RICHARDS REGARDING PROSECUTING
ATTORNEY SERVICES**

WHEREAS, as a part of the development of the 2013 Budget, discussions with the City Prosecutor identified potential reductions in monthly compensation; and

WHEREAS, The City Prosecutor has agreed to adjust the monthly compensation for services rendered;

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 First Addendum to the Professional Service Agreement with Kara Murphy Richards regarding Prosecuting Attorney Services which is identified as Exhibit "A" and attached hereto.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 6TH DAY OF DECEMBER, 2012.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

**FIRST ADDENDUM
To
PROFESSIONAL SERVICES AGREEMENT
Between
CITY OF BLACK DIAMOND
And
KARA MURPHY RICHARDS
Regarding
PROSECUTING ATTORNEY SERVICES**

1. **Date and Parties.**

1.1 This document ("First Addendum"), for reference purposes only, is dated the ____ day of _____, 2012, and is entered into by and between the CITY OF BLACK DIAMOND, a Washington municipal corporation ("City") and KARA MURPHY RICHARDS ("Consultant").

2. **General Recitals.**

2.1 The City and Consultant entered into a Professional Services Agreement regarding Prosecuting Attorney Services dated December 16, 2011 (the "Agreement") for the provision of Prosecuting Attorney Services in the City of Black Diamond.

2.2 The Agreement terms contemplated that the City and Consultant may choose to amend the Agreement to provide for the Consultant to perform certain work relative to the City's prosecution needs.

2.3 The parties have now determined that such an amendment is appropriate, and thus the intent of the First Addendum is reduce the standard monthly compensation rate and to clarify when additional compensation for court calendars and formal police training are necessary.

3. **Modification to Agreement Terms and Conditions.**

3.1 The Agreement terms are hereby incorporated by reference. The First Addendum terms are hereby incorporated into the Agreement by reference. The First Addendum is intended to modify the terms and conditions of the Agreement. In the case of any conflict between the terms of the Agreement and the terms of the First Addendum, the provisions of the First Addendum shall control.

4. **Additional Services and Schedule.**

4.1 The existing Agreement, Section 6, Compensation, is hereby amended to read as follows:

- A. Base rate. Beginning on January 1, 2013 the City shall pay the Prosecutor a base rate of \$2000 per month for performing the Scope of Work as set forth in Section 4 A, Scope of Work, numbers 1 through 13. This reduced rate of compensation set forth in this Addendum assumes an on-going level of Black Diamond Municipal Court hearings of two one-half days per month. The Contractor shall provide all services to effectively prosecute violations of the Black Diamond Municipal Code and for representing the City on infraction cases where the violator has retained counsel. This amount shall include all in court and out of court work (including but not limited to, clerical staff, office rent, photocopies and letters; mailing costs; telephone expenses), training for law enforcement, travel and attendance at necessary meetings. Prosecutor, at her expense, shall obtain and keep in force any and all necessary licenses and permits.
- B. Police Training rate. Work performed under the Scope of Work as set forth in Section 4A, number 1 – providing advice to Black Diamond Police Officers – not related to a specific case and when such advice consists of a formal in-service training session shall be compensated at the rate of \$400 for each half-day of such training.
- C. Additional Court Calendars rate. In the event it is necessary for the Contractor to schedule an additional court calendar or to accommodate a motion or trial that cannot be scheduled for a regularly scheduled court calendar or to otherwise complete a trial, the City agrees to additionally compensate the Contractor in the amount for each additional court calendar that is scheduled (\$400 per one-half day) up to a total of \$800 per month as full compensation for all additional court calendars.
- D. The rate of compensation may be adjusted by the mutual agreement of the parties in writing.

5. **Other Terms Unchanged.**

5.1 All other terms of the Agreement remain unchanged.

DATED: This ____ day of _____, 2012.

CITY OF BLACK DIAMOND

By: _____

Rebecca Olness

Its: Mayor

Nov

Date: ~~May~~ _____, 2012

CONSULTANT

By: 

Printed Name: Kara Murphy

Its: Prosecutor

Date: ~~May~~ Nov 2, 2012

Attest:

City



Consultant

By:

Brenda L. Martinez
City Clerk

City



Consultant

MEMORANDUM

TO: Mayor and City Council

FROM: Pete Butkus

RE: Change in professional services agreement for the City Prosecutor

Date: 09 NOV 12

As a part of our efforts to reduce costs in the 1023 Budget, staff discussed with the City Prosecutor a possible reduction in monthly costs. The Prosecutor has agreed to take a reduction in compensation based on an assumed continuation of the two one-half days of court each month. Provisions have been added to cover the costs of police training and extra court calendar days (one-half a day each).

The Municipal Court Judge has identified the need for four additional court days in 2013 to comply with a state court rule on when a criminal defendant must be arraigned. Assuming that these four days will necessitate an appearance by the Prosecutor, an additional amount of \$400 per court calendar day (consisting of ½ day each) which equals an additional \$1600 has been built into the Budget.

The acceptance of this Amendment will allow the 2013 Budget to be set at \$25,600 whereas the 2012 Budget amount was \$48,000.

Please Section 4.1.A contains an assumption of two one-half days per month to set the base rate. Increases beyond this number will increase costs.

Attachments:

First Addendum Professional Services Agreement
Existing Agreement

PROFESSIONAL SERVICES AGREEMENT FOR PROSECUTION SERVICES

WHEREAS the Prosecutor has been licensed to practice law in the State of Washington and has been previously acting as the contract Attorney for the City of Black Diamond, and

WHEREAS the Prosecutor has the demonstrated ability to provide high quality legal representation for the City in the City of Black Diamond Municipal Court in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases; and

WHEREAS the Mayor has recommended and the City Council finds that it is in the best interests of the public that the City retain the services of the Prosecutor;

NOW THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the parties hereto agree as follows:

1. Parties

This Agreement is entered into between the City of Black Diamond, King County, Washington ("City"), and Kara Murphy Richards ("Prosecutor"); collectively, the "Parties".

2. Effective date

This Agreement is effective as of the 1st day of January, 2012.

3. General description of services

Prosecutor has been retained by the City to provide professional legal services in Black Diamond Municipal Court and other courts as required.

4. Scope of Work

A. Prosecutor agrees to provide all necessary prosecution services to the City of Black Diamond, including:

- 1) Providing advice to Black Diamond Police Officers on matters relating to criminal law and proper procedures for enforcing the law;
- 2) Reviewing police reports for determination of probable cause and charging;

- 3) Drafting and filing criminal complaints and probable cause statements as necessary;
- 4) Appearing at arraignments, pretrial hearings, and motions;
- 5) Initiating settlement discussions and plea negotiations;
- 6) Handling all phases of jury trials;
- 7) Drafting briefs and motions;
- 8) Appearing at sentencing and review hearings;
- 9) Tracking case dispositions, including reasons for declining to prosecute particular cases;
- 10) Appearing on infractions where the violator has retained legal counsel;
- 11) Responding to and appearing on behalf of the City in RALJ appeals;
- 12) Appearing at civil asset forfeiture hearings;
- 13) Handling code enforcement cases as requested by the City.

- B. The services performed by the Prosecutor shall not exceed the Scope of Work without prior written authorization from the City.
- C. The City may from time to time require changes or modifications in the Scope of Work. However, such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to this Agreement.

5. Schedule of Work and Continuity of Representation

- A. It is agreed by the parties that continuity of representation is very important for effective prosecution. Therefore, Kara Murphy Richards shall be the primary person provide services under this Agreement and she shall make good faith efforts to be personally present for all court hearings unless she is unable to appear due to vacation, illness, emergency, or occasional scheduling conflicts. Prosecutor shall make good faith efforts to ensure that there is continuity of representation in choice of substitute prosecutors.
- B. Prosecutor shall appear for all regularly scheduled court hearings in the Black Diamond Municipal Court to perform the services described in the Scope of Work.
- C. As of the effective date of this Agreement, Prosecutor shall be required to appear in Black Diamond Municipal Court for a minimum of two calendar days each month. Jury trials, motions, and other special hearings may require occasional additional appearances.
- D. Prosecutor agrees and understands that, while the City will make good faith efforts to consult with Prosecutor prior to changing the schedule of court hearings, and will take Prosecutor's needs into accounts, the City will have final discretion to alter the scheduling of court hearings and it shall be Prosecutor's responsibility to ensure such hearings are covered by Prosecutor.

- E. In the event the prosecutor of any person would constitute a conflict of interest for the Prosecutor pursuant to the Washington State Bar Association Rules of Professional Conduct, the Prosecutor shall not prosecute such person and the City shall be responsible for the cost of outside legal representation for the City.

6. Compensation

- A. Base Rate. The City shall pay the Prosecutor a base rate of \$2,400 per month for performing all services necessary to effectively prosecute violations of the Black Diamond Municipal Code and for representing the City on infraction cases where the violator has retained counsel. This amount shall include all in court and out of court work (including but not limited to clerical staff, office rent, photocopies and letters; mailing costs; telephone expenses), training for law enforcement, travel and attendance at necessary meetings. Prosecutor, at her expense, shall obtain and keep in force any and all necessary licenses and permits.

7. Payment

- A. Base Rate. Payment of the base rate shall be made on the fifteenth (15th) day of every month for the preceding month of services, unless the 15th falls on a weekend or holiday, in which case payment by be made on the first business day following. Should this Agreement be terminated before the end of a full month, the base rate shall be prorated by subtracting payment for any scheduled courts days where Prosecutor failed to appear.
- B. Records Retention. Prosecutor shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.
- C. Dispute over Services. If the services rendered do not meet the requirements of the Agreement, Prosecutor will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.
- D. Deductions. In the event the Attorney fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, arising out of services rendered hereunder, then the Attorney authorizes the City to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance, if any. Any such payments shall be deducted from the Attorney's total compensation.

8. Contract Administration and Management.

- A. The Mayor or his or her designee shall have primary responsibility for administering services to be performed by the Attorney, and shall coordinate all communications between the Prosecutor and the City. The Mayor, or his/her designee, shall be responsible for evaluation of Prosecutor performance. Supervision and evaluation efforts may include in-court observations and periodic conferences.
- B. Prosecutor, at such times and in such form as the City may require, shall maintain a case reporting and management information system which includes number and type of cases, attorney hours and disposition of cases and shall furnish the City with periodic reports pertaining to the work and services undertaken pursuant to this agreement. The Attorney will make available to the City all work-related accounts, records and documents for inspection, auditing, or evaluation during normal business hours in order to assess performance, compliance and/or quality assurance under this agreement; provided that, any such system shall be maintained independently from client files so as to disclose no personal or privileged information.
- C. The Attorney shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this agreement or for any of the compensation due hereunder without the prior written consent of the City; provided that, any counsel associated with or employed by the Attorney or the Law Firm shall have the authority to perform the services called for herein, and Attorney may employ associated counsel to assist him/her at Attorney's expense. The Attorney and any other attorneys retained pursuant to this Agreement shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Washington and shall meet the standards set forth herein. The Attorney may also employ a legal intern admitted under Rule 9 of the Washington Admission to Practice Rules to provide public defense services. Legal interns will have their work reviewed by a supervising attorney and will have all their written work reviewed and/or countersigned by a supervising attorney.

9. Notices

All notices required by this Agreement shall be considered properly delivered when personally delivered, when received by facsimile, or on the third day following mailing, postage prepaid, certified mail, return receipt requested to:

City:

City of Black Diamond
PO Box 599
Black Diamond, WA 98010
Contact: Mayor, City of Black Diamond
Phone: 360-886-2560
Fax: 360-886-2592

Prosecutor:

Contact: _____
Tax I.D.#: _____
Phone: _____

Fax: _____

It is the responsibility of Prosecutor to notify the City in writing if the contact information appearing above should change.

10. Discrimination and Compliance with Laws

- A. Prosecutor agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.
- B. Prosecutor shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.
- C. Violation of Section 10 shall be a material breach of this agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility of Prosecutor to do further work for City.

11. Termination of Agreement

- A. Termination without fault. Either party may terminate this Agreement upon a minimum of ninety (90) days advance notice to the other party. Such notice shall indicate the date of termination.
- B. Termination for cause. The City may terminate the Prosecutor's contract for "cause" (as defined in this section) immediately upon written notice to the Prosecutor. Such notice shall specify in reasonable detail the nature of the cause. For purposes of this Agreement, "cause" shall include, without limitation: (1) material breach of this Agreement; (2) failure to satisfactorily perform her responsibilities and job duties; (3) unethical practices as set forth in the Rules of Professional Conduct; (4) loss of license to practice law in the state of Washington; or (5) fraudulent or dishonest conduct. The City shall have the sole discretion to determine whether there is cause to terminate the Prosecutor's services under this Agreement.

12. Standard of Care

Prosecutor represents and warrants that he or she, and any agents used to perform services under this Agreement, has the requisite training, skill and experience necessary to provide the services described herein and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided under this Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances. All obligations and services of Prosecutor

undertaken pursuant to this agreement shall be performed diligently and completely in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel.

13. Indemnification/Hold Harmless

Prosecutor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Prosecutor in performance of this Agreement, provided however, that such provision shall not apply to the extent that damage or injury results from the fault of the City or its officers, other agents, or employees. "Fault" as used herein shall have the same meaning as set forth in RCW 4.22.015.

14. Insurance

The Prosecutor shall procure and maintain for the duration of the Agreement professional liability insurance from a company licensed to do business in the State of Washington with limits no less than \$500,000 per claim and \$500,000 policy aggregate limit. This policy shall be written to insure Prosecutor and its agents, representatives, and employees.

15. Assigning or Subcontracting

This agreement may not be assigned by either party without the express written consent of the other party, and said consent can be withheld in that parties' sole discretion.

16. Independent Contractor

Prosecutor is and shall be at all times during the term of this Agreement an independent contractor. Prosecutor acknowledges that she is responsible for the payment of all charges and taxes applicable to the services performed under this agreement, and Prosecutor agrees to comply with all applicable laws regarding the reporting of income, maintenance of insurance and records, and all other requirements and obligations imposed as a result of the Prosecutor's status as an independent contractor. If the City is assessed, liable or responsible in any manner for those charges or taxes, Prosecutor agrees to hold the City harmless from those costs, including attorney's fees.

This agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

17. Governing Law and Venue for Disputes

Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in King County, Washington.

18. Attorney' Fees

In any suite or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

19. Extent of Agreement/Modification

This Agreement represents the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended or modified only by express written consent of both parties. The headings in this Agreement are inserted for convenience only and shall not affect the interpretations of this Agreement.

20. Severability

In any term or provision of the Agreement is held invalid, the remainder of such terms or provisions of this Agreement shall not be affected, if such remainder would then continue to confirm to the terms and requirements of applicable law.

21. Interpretation and Fair Construction of Contract

This Agreement has been reviewed and approved by each of the parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning and not strictly construed for, nor against, either party.

22. Waiver of Breach

The failure of any Party hereto to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any option or right herein conferred, in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option or right or of any other covenants or agreement, but the same shall be and remain in full force and effect.

BY ITS SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THIS AGREEMENT AND AGREES TO BE BOUND BY THEM.

CITY OF BLACK DIAMOND

By: Rebecca Olness
Print Name: Rebecca Olness
Title: Mayor
Date: 12/16/11

PROSECUTOR
Kara Murphy Richards

By: Kara M. Richards
Print Name: Kara M. Richards
Title: Prosecutor
Date: 12/14/11

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Resolution No. 12-842, authorizing an Interlocal Agreement between the cities of Federal Way, Auburn, Des Moines, and Black Diamond for the development of the interface between Valley Communications CAD and Spillman.		Agenda Date: December 6th, 2012	
		AB12-095	
		Department/Committee/Individual	
		Mayor Rebecca Olness	
		City Administrator – Pete Butkus	
		City Attorney – Chris Bacha	
		City Clerk – Brenda L. Martinez	
		Finance – May Miller	
		Public Works – Seth Boettcher	
		Economic Devel. – Andy Williamson	
Cost Impact: \$12,592.50	Police – Chief Kiblinger	X	
Fund Source: REET	Court – Stephanie Metcalf		
Timeline:			
Attachments: Proposed Resolution No. 12-842; Interlocal Agreement			
SUMMARY STATEMENT: With the new Valley Com CAD system being online in 2013, each of the cities will need an interface to facilitate the automated retrieval of incident data from the CAD system into their Spillman system (records management.) This agreement allows the 4 cities to share in the cost of development.			
COMMITTEE REVIEW AND RECOMMENDATION: Public Safety Committee			
RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-842, authorizing the Mayor to execute an Interlocal Agreement with the cities of Federal Way, Auburn, Des Moines for the development of the interface between Vally Communications CAD and Spillman.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
December 6, 2012			

RESOLUTION NO. 12-842

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE AN
INTERLOCAL BETWEEN THE CITIES OF FEDERAL WAY,
AUBURN, DES MOINES, AND BLACK DIAMOND TO
SHARE IN THE COST OF DEVELOPMENT OF A
SOFTWARE INTERFACE BETWEEN VALLEY
COMMUNICATIONS AND SPILLMAN RECORDS SYSTEM**

WHEREAS, Chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes municipalities in Washington to enter into agreements for the joint undertaking of certain projects as provided therein; and

WHEREAS, it is considered necessary and desirable in the public interest that the Cities exercise their respective rights and privileges afforded by said statute; and

WHEREAS, the Cities wish to share the cost to develop a software interface ("Interface") connecting the Valley Communications ("Valley Com") Tiburon Computer Aided Dispatch ("CAD") system to each Cities' Spillman Records Management System ("RMS"); and

WHEREAS, Federal Way is willing to take the lead in providing administrative oversight during the development and testing of this Interface by Data Pros, LLC ("Data Pros"); and

WHEREAS, the Cities will work together as follows to fund the development of the Interface;

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 between the Cities of Federal Way, Des Moines, Auburn and Black Diamond for Tiburon to Spillman Interface 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 6TH DAY OF DECEMBER, 2012.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

**GOODS AND SERVICES AGREEMENT
FOR
TIBURON TO SPILLMAN INTERFACE**

This Goods and Services Agreement ("Agreement") is made between the City of Federal Way, a Washington municipal corporation ("City"), and Data Pros, LLC, a Utah Limited Liability Company ("Contractor"). The City and Contractor (together "Parties") are located and do business at the below addresses which shall be valid for any notice required under this Agreement:

Data Pros, LLC: Spencer Brown 2509 S 100 W Bountiful, UT 84010 (801) 872-4497 (telephone) sbrown@datapros.net	CITY OF FEDERAL WAY: Thomas Fichtner 33325 8 th Ave. S. Federal Way, WA 98003-6325 (253) 835-2547 (telephone) Thomas.Fichtner@cityoffederalway.com
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The Parties agree as follows:

1. **TERM.** The term of this Agreement shall commence upon the effective date of this Agreement, which shall be the date of mutual execution, and shall continue until the completion of the Work, but in any event no later than 12/31/2014 ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Contractor.

2. **WORK.**

2.1 **Work.** The Contractor shall provide goods, materials or services and otherwise perform the work more specifically described in Exhibit "A", attached hereto and incorporated by this reference ("Work"), performed to the City's satisfaction, within the time period prescribed by the City and pursuant to the direction of the Mayor or his or her designee.

2.2 **Warranties.** The Contractor warrants that it has the requisite training, skill, and experience necessary to provide the Work and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to obtaining a City of Federal Way business registration. The Contractor warrants it will provide services in a manner consistent with the accepted practices for other similar services within the Puget Sound region in effect at the time those services are performed. The Contractor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Contractor's representations to City. The Contractor shall, at its sole cost and expense, correct all Work performed which the City deems to have defects in workmanship and material discovered within one (1) year after the City's final acceptance of the Work. This Agreement is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A RCW. In the event any part of the goods are repaired, only original replacement parts shall be used; rebuilt or used parts are not acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Contractor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Contractor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction. These warranties shall be transferrable to the Cities of Auburn, Black Diamond and Des Moines.

2.3 Time, Documentation, and Inspection. Work shall begin immediately upon the effective date of this Agreement. Work shall be subject, at all times, to observation and inspection by and with approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Work in accordance with this Agreement, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery.

2.4 Clean Up. At any time ordered by the City and immediately after completion of the Work, the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. In the event the Contractor fails to perform the necessary clean up, the City may, but in no event is it obligated to, perform the necessary clean up and the costs thereof shall be immediately paid by the Contractor to the City and/or the City may deduct its costs from any remaining payments due to the Contractor.

3. TERMINATION. Either party may terminate this Agreement, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Agreement. The City may terminate this Agreement immediately if the Contractor fails to maintain required insurance policies, breaches confidentiality, or materially violates Section 12 and such may result in ineligibility for further City agreements.

4. COMPENSATION.

4.1 Amount. In return for the Work, the City shall pay the Contractor an amount not to exceed a maximum amount and according to a rate or method as delineated in Exhibit "B", attached hereto and incorporated by this reference. The Contractor agrees that any hourly or flat rate charged by it for its services contracted for herein shall remain locked at the negotiated rate(s) for the Term. Except as otherwise provided in Exhibit "B", the Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

4.2 Method of Payment. On a monthly basis, the Contractor shall submit a voucher or invoice in the form specified by the City, including a description of what Work have been performed, the name of the personnel performing such Work, and any hourly labor charge rate for such personnel. The Contractor shall also submit a final bill upon completion of all Work. Payment shall be made on a monthly basis by the City only after the Work have been performed and within thirty (30) days after receipt and approval by the appropriate City representative of the voucher or invoice. If the Work do not meet the requirements of this Agreement, the Contractor will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

4.3 Defective or Unauthorized Work. If any goods, materials, or services provided under this Agreement are either defective, unauthorized, or otherwise do not meet the requirements of this Agreement, the Contractor will correct or modify the work to comply with the Agreement and the City reserves the right to withhold payment from the Contractor until the goods, materials, or services are acceptable to the City. If Contractor is unable, for any reason, to complete any part of this Agreement, the City may obtain the goods, materials or services from other sources, and Contractor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Agreement price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Agreement with other sources, from any and all amounts due or to become due the Contractor.

4.4 Non-Appropriation of Funds. If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will not be obligated to make payments for Work or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining Work for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.

4.5 Final Payment: Waiver of Claims. Contractor's acceptance of final payment shall constitute a waiver of any and all claims, except those previously and properly made and identified by Contractor as unsettled at the time request for final payment is made.

5. INDEMNIFICATION.

5.1 Contractor Indemnification. The Contractor agrees to release indemnify, defend, and hold the City, its elected officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers as well as the Cities of Auburn, Black Diamond and Des Moines harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, taxes, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or in connection with this Agreement or the performance of this Agreement, except for that portion of the claims caused by the City's sole negligence. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. Contractor shall ensure that each sub-contractor shall agree to defend and indemnify the City, its elected officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers to the extent and on the same terms and conditions as the Contractor pursuant to this paragraph. The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

5.2 Industrial Insurance Act Waiver. It is specifically and expressly understood that the Contractor waives any immunity that may be granted to it under the Washington State industrial insurance act, Title 51 RCW, solely for the purposes of this indemnification. Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. The Parties further acknowledge that they have mutually negotiated this waiver.

5.3 City Indemnification. The City agrees to release, indemnify, defend and hold the Contractor, its officers, directors, shareholders, partners, employees, agents, representatives, and sub- contractors harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City.

5.4 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

6. INSURANCE. The Contractor agrees to carry insurance for liability which may arise from or in connection with the performance of the services or work by the Contractor, their agents, representatives, employees or subcontractors for the duration of the Agreement and thereafter with respect to any event occurring prior to such expiration or termination as follows:

6.1. Minimum Limits. The Contractor agrees to carry as a minimum, the following insurance, in such forms and with such carriers who have a rating that is satisfactory to the City:

a. Commercial general liability insurance covering liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury, bodily injury, death, property damage, products liability, advertising injury, and liability assumed under an insured contract with limits no less than \$1,000,000 for each occurrence and \$1,000,000 general aggregate.

b. Workers' compensation and employer's liability insurance in amounts sufficient pursuant to the laws of the State of Washington;

c. Automobile liability insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limits in the minimum amounts required to drive under Washington State law per accident for bodily injury, including personal injury or death, and property damage.

6.2. No Limit of Liability. Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. The Contractor's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

6.3. Additional Insured, Verification. The City shall be named as additional insured on all commercial general liability insurance policies. Concurrent with the execution of this Agreement, Contractor shall provide certificates of insurance for all commercial general liability policies attached hereto as Exhibit "C" and incorporated by this reference. At City's request, Contractor shall furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. If Contractor's insurance policies are "claims made," Contractor shall be required to maintain tail coverage for a minimum period of three (3) years from the date this Agreement is actually terminated or upon project completion and acceptance by the City.

6.4 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement.

7. CONFIDENTIALITY. All information regarding the City obtained by Contractor in performance of this Agreement shall be considered confidential subject to applicable laws. Breach of confidentiality by the Contractor may be grounds for immediate termination. All records submitted by the City to the Contractor will be safeguarded by the Contractor. The Contractor will fully cooperate with the City in identifying, assembling, and providing records in case of any public records disclosure request.

8. WORK PRODUCT. All originals and copies of work product, including plans, sketches, layouts, designs, design specifications, records, files, computer disks, magnetic media or material which may be produced or modified by Contractor while performing the Work shall belong to the City upon delivery. The Contractor shall make such data, documents, and files available to the City and shall deliver all needed or contracted for work product upon the City's request. At the expiration or termination of this Agreement, all originals and copies of any such work product remaining in the possession of Contractor shall be delivered to the City.

9. BOOKS AND RECORDS. The Contractor agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Work and maintain such accounting procedures and practices as may be deemed necessary by the City 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 City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

10. INDEPENDENT CONTRACTOR / EMPLOYEE CONDITIONS.

10.1 Independence. The Parties intend that the Contractor shall be an independent contractor and that the Contractor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement. The City shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security, income, or other tax which may arise as an incident of employment, except as specifically provided in Section 4. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. If the Contractor is a sole proprietorship or if this Agreement is with an individual, the Contractor agrees to notify the City and complete any required form if the Contractor retired under a State of Washington retirement system and agrees to indemnify any losses the City may sustain through the Contractor's failure to do so.

10.2 Safety. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors at the work site and in the performance of the contract work and shall utilize all protection necessary for that purpose. Contractor shall comply with all applicable provisions of federal, state and municipal safety and health laws and codes, including without limitation, all OSHA/WISHA requirements, Safety and

Health Standards for Construction Work (Chapter 296-155 WAC), General Safety and Health Standards (Chapter 296-24 WAC), and General Occupational Health Standards (Chapter 296-62 WAC). Contractor shall erect and properly maintain, at all times, all necessary guards, barricades, signals and other safeguards at all unsafe places at or near the site for the protection of its employees and the public, safe passageways at all road crossings, crosswalks, street intersections, post danger signs warning against known or unusual hazards and do all other things necessary to prevent accident or loss of any kind. Contractor shall protect from damage all water, sewer, gas, steam or other pipes or conduits, and all hydrants and all other property that is likely to become displaced or damaged by the performance of the Work. The Contractor shall, at its own expense, secure and maintain a safe storage place for its materials and equipment and is solely responsible for the same

10.3 **Risk of Work.** All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. Even though Contractor is an independent contractor, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion

11. **CONFLICT OF INTEREST.** It is recognized that Contractor may or will be performing professional services during the Term for other parties; however, such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services. Contractor agrees to resolve any such conflicts of interest in favor of the City. Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor's selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

12. **EQUAL OPPORTUNITY EMPLOYER.** In all services, programs, activities, hiring, and employment made possible by or resulting from this Agreement or any subcontract, there shall be no discrimination by Contractor or its subcontractors of any level, or any of those entities' employees, agents, subcontractors, or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, religion, creed, national origin, marital status, or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply to, but not be limited to, the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall comply with and shall not violate any of the terms of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973, 49 CFR Part 21, 21.5 and 26, or any other applicable federal, state, or local law or regulation regarding non-discrimination.

13. **GENERAL PROVISIONS.**

13.1 **Interpretation and Modification.** This Agreement, together with any attached Exhibits, contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior statements or agreements, whether oral or written, shall be effective for any purpose. Should any language in any Exhibits to this Agreement conflict with any language in this Agreement, the terms of this Agreement shall prevail. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement. Any provision of this Agreement that is declared invalid, inoperative, null and void, or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Any act done by either Party prior to the effective date of the Agreement that is consistent with the authority of the Agreement and compliant with the terms of the Agreement, is hereby ratified as having been performed under the Agreement. No provision of this Agreement, including this provision, may be amended, waived, or modified except by written agreement signed by duly authorized representatives of the Parties.

13.2 **Assignment and Beneficiaries.** Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other

Party. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent. Subject to the foregoing, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person or entity shall have any right of action or interest in this Agreement based on any provision set forth herein.

13.3 Compliance with Laws. The Contractor shall comply with and perform the Services in accordance with all applicable federal, state, local, and city laws including, without limitation, all City codes, ordinances, resolutions, regulations, rules, standards and policies, as now existing or hereafter amended, adopted, or made effective. If a violation of the City's Ethics Resolution No. 91-54, as amended, occurs as a result of the formation or performance of this Agreement, this Agreement may be rendered null and void, at the City's option.

13.4 Enforcement. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Contractor's performance of this Agreement. Any notices required to be given by the Parties shall be delivered at the addresses set forth at the beginning of this Agreement. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth above. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. This Agreement shall be made in, governed by, and interpreted in accordance with the laws of the State of Washington. If the Parties are unable to settle any dispute, difference or claim arising from this Agreement, the exclusive means of resolving that dispute, difference, or claim, shall be by filing suit under the venue, rules and jurisdiction of the King County Superior Court, King County, Washington, unless the parties agree in writing to an alternative process. If the King County Superior Court does not have jurisdiction over such a suit, then suit may be filed in any other appropriate court in King County, Washington. Each party consents to the personal jurisdiction of the state and federal courts in King County, Washington and waives any objection that such courts are an inconvenient forum. If either Party brings any claim or lawsuit arising from this Agreement, each Party shall pay all its legal costs and attorney's fees and expenses incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the Parties' rights to indemnification under Section 5 of this Agreement.

13.5 Execution. Each individual executing this Agreement on behalf of the City and Contractor represents and warrants that such individual is duly authorized to execute and deliver this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and with the same effect as if all Parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signature and acknowledgment pages from such counterparts may be assembled together to form a single instrument comprised of all pages of this Agreement and a complete set of all signature and acknowledgment pages. The date upon which the last of all of the Parties have executed a counterpart of this Agreement shall be the "date of mutual execution" hereof.

[Signature page follows]



4/2011

EXHIBIT "A"

SERVICES

Project: Tiburon to Spillman Interface

Client: Auburn, Black Diamond, Des Moines, and Federal Way Police Departments

1. Data Exchange

1.1. Data Flow

1.1.1. The flow of data is one way, coming from the Tiburon Command CAD Software to the Spillman Records System.

1.1.2. ACK/NACK – There are no ACK/NACK responses from Tiburon Command CAD, they push files to an FTP Server, where they will be retrieved and loaded into the Spillman Records System.

1.2. Data Packages

1.2.1. Incident Data – This interface has only one data package which is Incident Information originating from Tiburon's Command CAD Software (911 Call Incidents). It includes CAD Incidents or Calls, Dispatched Units, Segments, RMS Case Numbers, and other Metadata as described in the Specification from Tiburon titled Command CAD Universal Data Stream Interface Control Document.

1.3. Data Mapping – Data Mapping will include all fields specified in the Tiburon Command CAD Universal Data Stream Interface Control Document. Fields that do not map directly to a field in the Spillman Database can be put into a text Narrative field for the Law Incident. The customer will help define the mapping of the data and where fields ultimately go in the Spillman Database. The mapping of the data will be agency customizable based on the requirements for each agency. Customizations must not be hard-coded and incorporate the ability to be modified by the system administrator of each agency within the Interface Configuration Application.

1.4. Frequency – The system administrator will have the ability to set up the interface to pull from the FTP Server Incident Records on a time interval that he/she feels comfortable with. The interval options will allow for minutes, hours, and days. This will be set up in the Interface Configuration Application.

2. Connection Methods

2.1.1. FTP Server – The incident information will originate from Command CAD. Upon incident closure, Command CAD will transfer data to a data warehouse controlled by Tiburon. From this Data Warehouse, Tiburon will build an XML file containing the incident data and push that file to an FTP Server accessible by the agency for which the Incidents belong.

2.1.2. FTP Server Management – Data Pros will have read/write access to the FTP Server to manage the data records contained therein. When the Incident Records are successfully loaded into the Spillman System and receipt of the successful insert is received, Data Pros will remove the records in the FTP Server that were successfully inserted to the Spillman database.

2.2. Connection Information

2.2.1. URL:

2.2.2. UN:

2.2.3. PW:

2.2.4. Firewall Authentication if any?

3. Failsafe - Secondary Method of Data Exchange

3.1. FTP Server Directory – After successfully loading the records in the Spillman System as described in Section 2.1.2, Data Pros will remove records from the active directory and save them to an archive directory on the same FTP Server for archival purposes and a failsafe in case there is a problem from any side of the Interface for exchanging the incident data.

4. Interface Configuration Application

4.1. Frequency – Allows the System Administrator to determine how frequent the FTP Server is pulled for new records. In addition, it should allow the System Administrator to determine which data is mapped to the Spillman Database for future customization by each agency.

4.2. Failure Message Response Logging – In the Interface Configuration Application, the System Administrator will have a logging screen that will show a log of the transactions inserted into the Spillman Database, both success and failure.

5. Installation

- 5.1. Interface will reside on an available Windows Server located at the agency using Spillman inside their firewall with access to the Spillman Server. The server can be running Windows Server 2008 R2, 2008 or 2003, and not be approaching full capacity on the RAM and hard drive. The usage is small, a PC running Windows Server is sufficient to run the interface.
- 5.2. The scope of this project is to install the interface at the following agencies:
 - 5.2.1. Auburn Police Department
 - 5.2.2. Black Diamond Police Department
 - 5.2.3. Des Moines Police Department
 - 5.2.4. Federal Way Police Department – Beta Test Site

6. Testing

- 6.1. Test Server –
 - 6.1.1. Data Pros can test with real or sample files from the actual FTP Servers set up for the agencies listed in 5.2.

7. Key Tasks and Milestones

- 7.1. Define Scope of Work – Data Pros will work with Agencies listed in 5.2 in defining the interface project requirements contained in this document, which is the Scope of Work or SOW. When agreed upon, the SOW will be put into the contract for sign-off.
- 7.2. Development & Initial Testing – Data Pros will develop the interface as defined in the SOW. After initial development is completed, testing at the Beta Test site defined in section 5.2 will commence. Development and initial testing will be completed within 90 days of mutual execution of this agreement.
- 7.3. Installation – Data Pros will install the interface at the respective agencies listed in section 5.2.
- 7.4. Testing – Data Pros will test the interface with the help of the agencies and Tiburon. Once the initial testing is verified to be working according to SOW requirements, Data Pros will monitor the interface with the agencies for a minimum of two weeks. Thus ensuring the product is stable and functioning correctly.
- 7.5. Completion – When the minimum testing period is over and both parties agree that the interface is stable, has no open problems, and meets the requirements specified in the SOW, the interface will be deemed complete and will be invoiced. Data Pros will then release interface product as a standard supported interface product.

8. Project Deliverables

- 8.1. Subject to timely payment, the deliverables described hereafter (the "Deliverables") will be provided to Client in final form upon completion of the tasks described in this Statement of Work. Preliminary or draft versions of these Deliverables will be made available to Client for review during the course of the Project.
 - 8.1.1. Scope of Work
 - 8.1.2. Contract
 - 8.1.3. Spillman to IDOC Web Services Interface
 - 8.1.4. Installation Services
 - 8.1.5. Beta Testing Services

9. Time and Cost Estimates

- 9.1. Time – It is anticipated that this interface will take two months to develop. After the development period when the first install is stable and working properly, generally a two week period, the other installs will take place in a timely manner. The secondary installs will require smaller amounts of time but varies and depends on the expertise and help of the agency.
- 9.2. Costs
 - 9.2.1. Development Costs – The development cost of the interface is \$40,000.
 - 9.2.2. Installation Costs – Each install will cost \$2,000. There are four installs, therefore the installation fees are \$8,000.
 - 9.2.3. Support Costs – Annual Support is 10% of total contract price, \$4,800. First year maintenance period does not start until after the last install is running according to SOW. At that point the first year maintenance is invoiced, and will be invoiced annually at that support contract date thereafter.

EXHIBIT "B"
COMPENSATION

1. Total Compensation:

In return for the Services, the City shall pay the Contractor an amount not to exceed Fifty Three Thousand Eight Hundred Seventy Four and 00/100 Dollars (\$53,874.00). This amount is inclusive of a 15% contingency and Washington State Sales Tax.

2. Method of Compensation:

In consideration of the Contractor performing the Services, the City agrees to pay the Contractor the above stated Total Compensation for the development, installation and first year of maintenance/support for the City. The Cities of Auburn, Black Diamond, and Des Moines will establish an agreement separately from this Goods and Services Agreement with the Contractor for the installation and first year support/maintenance for each of the respective cities.

The future annual support/maintenance cost of \$4,800 will be divided four ways (\$1,200/each) by the Contractor and invoiced to each of the individual Cities of Federal Way, Auburn, Black Diamond and Des Moines. The City of Federal Way shall only be held responsible for 25% of the future annual support/maintenance.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 12-843, acceptance of the 2012 Roadway Grind, Patch and Crack Sealing Project	Agenda Date: December 6, 2012	
	AB12-096	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Pete Butkus	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
Cost Impact: \$3,415.36 (retainage)	PW/Ec Devel. – Andy Williamson	X
Fund Source: Street Maintenance	Police – Jamey Kiblinger	
Timeline: 45 days to clear any claims	Court – Stephanie Metcalf	
	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 12-843		
SUMMARY STATEMENT: Northwest Asphalt, Inc. completed the required work for the 2012 Roadway Grind, Patch and Crack Sealing project within the budget and timeframe as outlined in the contract. Retainage in the amount of \$3,415.36 will be withheld until release is received by the Dept. of Revenue, Dept. of Labor and Industries, and the Employment Security Dept. The State has established a 45 day period where labor or material providers may make a claim against the project. After 45 days from the date of project acceptance, the City may release retainage.		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 12-843, accepting the 2012 Roadway Grind, Patch and Crack Sealing Project by Northwest Asphalt, Inc. according to the contract documents.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
December 6, 2012		

RESOLUTION NO. 12-843

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING FINAL ACCEPTANCE OF THE 2012
ROADWAY GRIND, PATCH AND CRACK SEALING
PROJECT**

WHEREAS, Northwest Asphalt, Inc. has completed the 2012 Roadway Grind, Patch and Crack Sealing Project according to the contract and Council authorization; and

WHEREAS, RCW 60.28.011(2) allows a period of forty-five days to file any liens or claims with the City; and

WHEREAS, RCW 39.08.030 requires acceptance of a Public Works project as complete as a formal, public action in order to begin the forty-five day period;

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

Section 1. The City hereby accepts the 2012 Roadway Grind, Patch and Crack Sealing Project as complete and as set forth in that contract with Northwest Asphalt, Inc.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 6TH DAY OF DECEMBER, 2012.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk