



CITY OF BLACK DIAMOND
August 13, 2015 Regular Work Session Meeting Agenda
25510 Lawson Street, Black Diamond, Washington

6:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

WORK SESSION:

- 1) Fire and Emergency Services in Black Diamond – Draft Pre-Annexation Agreement Discussion
Joint Fire Ad Hoc Committee
- 2) Discussion of Transportation Benefit District
Mr. Boettcher
- 3) Adjournment

Black Diamond / Mountain View
Joint Ad Hoc Committee
Fire and Emergency Services in Black Diamond

June 2015

The City of Black Diamond adopted Resolution 15-1018 and Mountain View Fire and Rescue adopted Resolution 15-501, each of these Resolutions approving the continued work of the Fire Ad Hoc Committee, originally authorized in 2013. These Resolutions expanded the scope of their efforts, to include drafting a recommended “Pre-Annexation Agreement” between the City and District.

The Ad Hoc Committee has been developing this new scope of work; members of the Committee will soon be meeting individually with both the City Council and Board of Commissioners, for a short work session.

These work sessions will be employed to receive input related to the composition and main elements of the Draft Pre-Annexation Agreement. From these “main elements”, the Ad Hoc Committee will formulate detailed language related to each element.

The work sessions will ensure that the Committee has input from both the City and District in formulating this Draft Agreement.

Included here are two documents:

Document 1 *Elements of Pre-Annexation Agreement list as developed by the Ad Hoc Committee.*

Document 2 *Boiler Plate Example of Pre-Annexation Agreement between City and Fire District.*

Please review these two documents (incorporated here) in preparation for the work session(s) with members of the Ad Hoc Committee that will be scheduled for ~~July~~ August.

Document 1 (Pre-Annexation Agreement, Main Elements, as developed by Ad Hoc Committee)

ELEMENTS OF PRE-ANNEXATION AGREEMENT

- ☐ *Level of service*

- ☐ *Assets (who owns what if annexation takes place) (use of real property, future capital needs)*
- ☐ *Disposition of Property (owned by City)*
- ☐ *Maintenance and Repair (if required should City Maintain Ownership of facilities or equipment)*

- ☐ *Representation of City (what are the options)*

- ☐ *Pre Existing Capital Needs (how are these addressed) (Fire Stations, Apparatus etc.)*
- ☐ *Mitigation/Impact Fees (how are these handled)*

- ☐ *Legal issues (let the lawyers tell us)*

- ☐ *Other services to City (Fire Marshal, Investigation, Etc. .)*
- ☐ *Code Enforcement*
- ☐ *Fees for service*

- ☐ *Interlocal agreement (joint purchase opportunities) Chapter 39.34 RCW INTERLOCAL COOPERATION ACT*
- ☐ *Language related to other “shared” resources (IT, Vehicle Maintenance, Grounds Maintenance etc. etc.*

- ☐ *Language pertaining to areas that may be annexed into the City, that are not presently part of the Fire District. (RCW)*

RCW 52.04.091

Additional territory annexed by city to be part of district.

When any city, code city, partial city as set forth in RCW 52.04.061(2), or town is annexed to a fire protection district under RCW 52.04.061 and 52.04.071, thereafter, any territory annexed by the city shall also be annexed and be a part of the fire protection district.

- ☐ *Participation in Community Events*

- ☐ *CERT (Citizens Emergency Response Team)*

- ☐ *Disaster Preparedness, EOC, etc.*

- ☐ *Participation in City Planning and other functions.*

- ☐ *Public Information*

- ☐ *De-Annexation of City from District Language (As per RCW) (should the City opt to de-annex at a later date.)*

RCW 52.04.101

Withdrawal by annexed city, partial city, or town — Election.

The legislative body of such a city, partial city as set forth in RCW 52.04.061(2), or town which has annexed to such a fire protection district, may, by resolution, present to the voters of such city, partial city as set forth in RCW 52.04.061(2), or town a proposition to withdraw from said fire protection district at any general election held at least three years following the annexation to the fire protection district. If the voters approve such a proposition to withdraw from said fire protection district, the city, partial city as set forth in RCW 52.04.061(2), or town shall have a vested right in the capital assets of the district proportionate to the taxes levied within the corporate boundaries of the city, partial city as set forth in RCW 52.04.061(2), or town and utilized by the fire district to acquire such assets.

- ☐ *TERM OF AGREEMENT (how long does this document remain in effect?)*

End of document 1

Document 2 (Boiler Plate Examples, Pre-Annexation Agreement between City and Fire District.)

INTERLOCAL AGREEMENT FOR ANNEXATION OF CITY OF _____ TO _____ COUNTY FIRE PROTECTION DISTRICT NO. X This AGREEMENT is entered into by the City of _____ (the "CITY") and _____ County Fire Protection District No. X (the "FIRE DISTRICT") for the purposes stated below.

RECITALS

WHEREAS, the City of _____ and _____ County Fire District X are both located in central _____ County and have contiguous boundaries and borders; and WHEREAS, the City of _____ and _____ County Fire District X have had a long and successful relationship, by working jointly in providing emergency services to the respective jurisdictions and communities sharing jointly owned fire station facilities; and

WHEREAS, the City of _____ and _____ County Fire District X are authorized by Chapter 52.04 RCW to cause an election to be held in order for voters of both jurisdictions to decide whether or not the City should become a part of the Fire District and the Fire District and the City have agreed to submit the annexation to the voters in the Month, Year election;

WHEREAS, the City of _____ and _____ County Fire District X have now reached agreement on said terms and conditions by which they will transition if the vote to annex is successful, and as such, the parties desire to formalize their Agreement in writing ; and

WHEREAS, the administration of the Joint Operating Agreement that governs the working relationship between the City and the Fire District has taken a significant amount of City staff and elected official time; and

WHEREAS, the City finds that the annexation into the Fire District will create a significant administrative cost savings to City residents and the City is therefore willing to provide the Fire District with the use of City fire department property in exchange for taking on the full responsibility for providing fire service to City residents; and

WHEREAS, the City also finds significant value in having the Fire District agree to provide fire inspection and code services to the City at fees only charged to third parties that are controlled by the City and these services also constitute consideration for Fire District use of City fire department property.

AGREEMENT

IN CONSIDERATION OF THE TERMS AND CONDITIONS SET FORTH BELOW, THE PARTIES AGREE AS FOLLOWS:

1. ANNEXATION PROCESS

A. Pursuit of Annexation. Pursuant to RCW 52.04.061, the CITY and FIRE DISTRICT agree to pursue annexation of the City of _____ into the FIRE DISTRICT according to the provisions of Chapter RCW 52.04 and the terms and conditions set forth in this Agreement and any amendments thereto, subject to approval of such annexation by the _____ County Boundary Review Board and the electorate of both jurisdictions.

B. Boundary Review Board (BRB) Notices and Proceedings. 1. The City shall take the lead in filing a Notice of Intent with the _____ County Boundary Review Board pursuant to Chapter 36.93 RCW. 2. The City shall also act as lead agency for State Environmental Policy Act "SEPA" purposes in connection with the annexation. 3. Both parties agree that they will not request that the jurisdiction of the BRB be invoked to review the annexation. In the event that a request for review is filed by any person or persons authorized to do so under RCW 36.93.100, the District and the City agree to jointly coordinate, prepare, and present testimony to the BRB in favor of the annexation and to take all necessary actions to obtain BRB approval of the annexation.

C. Costs. The parties agree to fund their own respective costs for the annexation and election process.

2. POST ANNEXATION EMERGENCY SERVICES

A. Existing Agreement. 1. Upon annexation into the Fire District, the current Joint Operating Agreement between the City of _____ and _____ County Fire District X for fire and emergency medical services shall be cancelled, null and void except for where referenced in this agreement.

2. The term „annexation“ shall mean the date on which _____ County election officials certify the election and grant taxing authority for the City of _____ to the Fire District.

3. Should the annexation ballot issue be unsuccessful or the date of the election is changed to a later date, the current agreement between the City of _____ and _____ County Fire District X for fire and emergency medical services shall remain in full effect.

B. Emergency services. Upon annexation of the City of _____ into the Fire District, emergency services shall continue being provided by the District within the boundaries of the City at the same level of service as the rest of the District.

C. Other services. The City and the Fire District recognize their crucial role in disaster preparedness and response to the community. City and Fire District staff will continue to partner in joint, multi-discipline disaster planning, preparation, mitigation, exercises, and training. The City and the District mutually agree that Fire Prevention and Investigation Services are an integral service to the City and is best provided to the City by the District. In an effort to continue the relationship between the City and District with respect to Fire Prevention and Investigation Services post-annexation, the following method of ensuring continued and improved Fire Prevention and Investigation Services to the City is established as part of this post-annexation agreement.

1. Upon annexation by the City into the District, the District shall continue to provide to the City Fire Prevention and Investigation Services in a manner consistent with current practices. These Fire Prevention and Investigation Services shall include the following:

a. Plan Review: The District shall provide life and fire safety plan review for new development and construction, and tenant improvement projects consistent with applicable statutes, regulations and codes. The District shall coordinate plan review services with the City by attending pre-Application meetings, conducting plan reviews within established timelines, responding to applicant inquiries, and attending other meetings as necessary to provide Fire Prevention and Fire Marshal services to the City in a professional and competent manner.

b. Fire Marshal: The District shall provide an employee to serve as the City's Fire Marshal and Fire Code Official. The Fire Marshal shall represent the City and District with respect to Fire Prevention issues. The Fire Marshal shall recommend code amendments and fire department fee amendments to Council, attend Council meetings when requested or when representing Fire Department or Fire Prevention issues, and when requested to do so, attend meetings with other department members or department heads. The Fire Marshal shall administratively establish submittal requirements, submittal forms and render official interpretations of the fire code.

c. Fire Inspections: The District shall conduct a program of fire inspection of occupancies consistent with the International Fire Code.

d. Fire Investigation: The District shall investigate the origin and cause of City fires and explosions in a manner consistent with NFPA 921. Investigations of a criminal nature shall be conducted jointly with the _____ Police Department. The Fire District shall provide all Fire District services deemed necessary by the Police Department to conduct criminal investigations and prosecutions, including site inspections, lab analysis, written opinions and reports and expert testimony

e. Public Education: The District shall provide a program of public education activities within the City. The program shall include, but is not limited to annual fire safety education classes within public and private schools, senior life and safety education programs, participation at community events, and fire safety or first aid training to City employees.

f. Code Enforcement: The District shall provide a Fire Code official to the extent necessary to enforce the International Fire Code and fire prevention measures enacted into the _____ Municipal Code or otherwise . 2. Fire Prevention and Investigation Services described in Section 1 shall be provided to the City without compensation to the District except as noted below.

a. The City shall continue to collect fire department fees, as specified in the duly passed fees resolution, and remit these collected fees to the District on a quarterly basis.

b. The Permit Department shall continue to retain \$25 of each permit issued under the Fire Department fees (Table I). Fire Prevention Services provided by the District to the City shall be administered in the interest of the City and the District shall perform all responsibilities required by applicable law in its role as the City Fire Code Official and Fire Marshal, including but not limited to any responsibilities specified for these officials in the International Fire Code and _____ Municipal Code (as now or hereafter amended).

Nothing in this Agreement shall be construed as requiring the City to use the Fire District exclusively for its Fire Code Official and Fire Marshal. All actions of the Fire Code Official and/or Fire Marshal shall be subject to the approval of the City. The City may terminate the services of the Fire District as Fire Code Official and/or Fire Marshal at any time.

3. OWNERSHIP AND USE OF REAL AND PERSONAL PROPERTY

A. Ownership not Affected by Annexation. If the voters approve the annexation in the Month, Year election referenced in the whereas clauses to this Agreement, the parties agree that the annexation will not alter any property ownership interests of the Fire District or the City in any real or personal property. Upon the expiration of the Joint Operating Agreement as specified in this Agreement, the ownership interests of the parties to any property subject to Joint Operating Agreement shall be as specified by the Joint Operating Agreement immediately prior to expiration, subject to the following modifications:

1. The Fire District shall assume all outstanding obligations to pay for any personal property used by the Fire District under the Joint Operating Agreement until such time as the Council chooses to exercise its ownership rights as specified in Paragraph 3(b) herein. For personal property involving any outstanding obligation to pay, the Fire District's ownership interest shall be its prorata share of all principal payments, past and present, made on the personal property. For example, if the Fire District pays for 50% of the purchase price of a vehicle, excluding interest, the Fire District shall have a 50% ownership interest in the vehicle.

2. The Fire District shall assume all repair and maintenance costs for any personal property identified in this Paragraph 3. The costs of any such repairs and maintenance incurred after the expiration of the Joint Operating Agreement may be added to the acquisition cost of the property and the Fire District's ownership interest shall be adjusted accordingly. For example, if the Fire District has spent \$4,000 in repairs and costs to a fire truck, the cost of the truck will be increased by \$4,000 and the Fire District's contribution to the truck increased by \$4,000 for purposes of determining the Fire District's ownership interest.

B. Use of Real and Personal Property.

The Fire District shall have the exclusive right to use and possess the personal and real property identified in this Paragraph 3 until such time as the City Council determines that it would like to exercise its ownership rights to any or all such property.

C. Disposition of Property.

1. Should the City Council choose to exercise its ownership rights to any of the personal property identified in this Paragraph 3 as specified by Paragraph 3(b) of this Agreement, the parties at that time shall determine how the property is to be used or disposed. Should the parties be unable to come to agreement within 90 days of the Council's notice to exercise ownership rights, the property shall be liquidated pursuant to state law and the proceeds of sale allocated according to the parties' respective ownership interests. The City shall be responsible for liquidating the property and the Fire District shall pay 50% of the liquidating costs.

2. Should the City Council choose to exercise its ownership rights to any of the real property identified in this Paragraph 3 as specified by Paragraph 3(b) of this Agreement, the parties at that time shall determine how the property is to be used or disposed. Should the parties be unable to come to agreement within 90 days of the Council's notice to exercise ownership rights, the Fire District shall pay the City the fair market value of its ownership interest in the property within 24 months of the Council notice to exercise its ownership rights. Fair market value shall be determined as of the date payment is received.

D. Liability, Maintenance and Repair.

Unless and until the City Council exercises its ownership rights as specified in Paragraph 3(c) of this Agreement, the Fire District shall assume all responsibility for liability, maintenance and repair of the property subject to this Paragraph 3 to the same extent that it was the owner of the property. In this regard the Fire District takes all the property as is and the City makes no representations or warranties as to the suitability of the property for the uses intended by the District. The Fire District agrees to hold harmless, indemnify and defend the CITY, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the CONSULTANT, or damage to property, arising in any way out of the use or possession of the property identified in this Paragraph 3, provided, however, that:

1. The Fire District's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the CITY, its officers, agents or employees; and

2. The Fire District's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Fire District and the CITY, or of the Fire District and a third party other than an officer, agent, subconsultant or employee of the Fire District, shall apply only to the extent of the negligence or willful misconduct of the Fire District.

E. Property Subject to Paragraph 3.

Property referenced as "subject to" or "identified" in Paragraph 3 is comprised of the following: 1. Real Property

(a) The real property and building located at 12345 A Street, X _____, WA known as the "Station #XX".

(b) The real property and building located at 12345 B Street SE _____, WA known as Station X.

2. Personal Property. (a) The apparatus described as follows:

<i>Manufacturer</i>	<i>Year</i>	<i>Type</i>	<i>Vehicle ID Number</i>
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All other personal property shall be mutually agreed upon by addendum executed prior to December x, x. Any real or personal property not expressly identified in this Agreement by December x, x, shall not be subject to this Agreement.

F. Insurance. The Fire District shall insure all property identified in this Paragraph 3 to the same degree as Fire District assets.

G. Sale, Lease, Transfer or Encumbrance. The Fire District will not sell, lease, transfer or in any way encumber any of the property identified in this Paragraph 3 without the written consent of the City.

4. BONDED INDEBTEDNESS

Annexation of the City of _____ into the Fire District shall not require any City residents to assume any of the District's existing debt service or the Fire District's residents to assume any of the City's existing debt service.

5. FIRE DISTRICT FEE FOR SERVICE

A. The City will continue to reimburse the Fire District per the Joint Operating Agreement for fire and emergency medical services until the calendar year in which the Fire District has legal authority to collect property taxes within the corporate limits of the City of _____.

For example, if the annexation election occurs in February 20x1 and is approved by the voters, the City will continue to pay for the fire and emergency medical services for the 20x1 calendar year. The Fire District can commence imposing its general levy on City residents in 20x2.

B. The City shall continue to levy, collect and remit taxes within the corporate limits of the City in the same manner as set forth in the Joint Operating agreement between the parties until the District has legal authority to do so.

6. LIABILITIES — INDEMNITY

A. Each of the parties shall, at all times, be solely responsible for the acts or the failure to act of its personnel that occur or arise in any way out of the performance of this contract by its personnel only and to save and hold the other party and its personnel and officials harmless from all cost, expenses, losses and damages, including cost of defense, incurred as a result of any acts or omissions of the party's personnel relating to the performance of this contract.

7. MODIFICATION A. This Agreement represents the entire agreement between the parties.

B. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding on either of the parties unless executed in writing by authorized representatives of each of the parties.

C. The Agreement shall not be modified, supplemented or otherwise affected by course of dealings between the parties.

8. BENEFITS

A. This Agreement is entered into for the benefit of the parties to this Agreement only and shall confer no benefits, direct or implied, on any third persons.

9. ARBITRATION

A. In the event of a disagreement between the parties relating to the interpretation of the terms of this Agreement, the parties agree that such dispute shall be resolved by binding arbitration.

B. The arbitration shall be conducted by a panel of three (3) arbitrators selected from a list provided by the American Arbitration Association.

C. Each party shall appoint an arbitrator who shall not be employed or reside in _____ County, Washington.

D. The two arbitrators shall appoint a third arbitrator with the same qualifications.

E. Unless different rules are adopted by the Board of Arbitrators, the rules of the American Arbitration Association shall apply with respect to the arbitration proceedings.

10. REPORT

A. The Fire Chief will provide the City with a copy of the District's audit report.

11. OBLIGATIONS CONTINGENT.

A. The obligations of the parties under this Agreement are expressly contingent upon receipt of a favorable vote on annexation at the February 20xx election.

B. Except as otherwise expressly provided in this Agreement, in the event that the annexation ballot proposition is not submitted to the voters in November 20xx, or in the event that the proposition is submitted and does not receive the favorable vote in both the District and the City that is required for annexation, this Agreement shall terminate and the parties shall have no further obligations under it.

C. In the event that the annexation proposition is submitted and fails, the City and the District will continue to operate under the existing Joint Operating Agreement.

D. In the event the annexation proposition passes, the Joint Operating Agreement shall immediately terminate, and the parties hereto agree to waive the 180 day written notice of termination requirement set forth in the Agreement thereof, and intend to operate pursuant to the terms of this Agreement.

12. COSTS A. Each party agrees to bear and pay its own expenses in connection with the negotiation and implementation of this Agreement, including, but not limited to, its attorney fees and consultant fees.

13. INTEGRATED AGREEMENT A. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and may be modified only by a written instrument signed by all parties hereto.

14. SEVERABILITY A. In the event that any section, sentence, clause or paragraph of this Agreement is held to be invalid by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall remain in full force and effect.

15 LITIGATION A. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for _____ County. B. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney fees, in addition to any other award.

16. THIRD-PARTY RIGHTS

A. Anything to the contrary notwithstanding, nothing contained in this Agreement shall be interpreted to create third-party rights in any person or entity not a party thereto.

17. EFFECTIVE DATE A. This Agreement shall become effective upon approval and execution by both parties.

CITY OF X

FIRE PROTECTION DISTRICT NO. X

Buy Date

Buy Date

End Of Document 2

Should you have any questions please contact Chief Smith at

chiefsmith@kcf44.org

or call

253 569 7770 (Cell)

Chief Smith

For Ad Hoc Committee

CITY OF BLACK DIAMOND, WASHINGTON
ORDINANCE NO. _____

AN ORDINANCE OF BLACK DIAMOND, WASHINGTON, RELATING TO THE ESTABLISHMENT OF THE BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT, IDENTIFYING THE GOVERNING BOARD, DESCRIBING THE FUNCTIONS OF THE DISTRICT, DESCRIBING THE MANNER IN WHICH TRANSPORTATION IMPROVEMENTS SHALL BE FUNDED AND DISSOLUTION OF THE DISTRICT, ALL AS ALLOWED BY CHAPTER 36.73 RCW, ADDING A NEW CHAPTER 12.06 TO THE BLACK DIAMOND MUNICIPAL CODE.

WHEREAS, the City Council desires to respond to the need for transportation funding for the maintenance and operation of city streets by establishing a transportation benefit district, as authorized by chapter 36.73 RCW; and

WHEREAS, the SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as a program relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

WHEREAS, notice of a public hearing on this Ordinance establishing a transportation benefit district was provided according to RCW 36.73.050(1), including, but not limited to, publication of such notice in a newspaper in general circulation in the City, not less than ten days before the hearing; and

WHEREAS, the public hearing was held on the establishment of a transportation benefit district by the Black Diamond City Council on August 6th, 2014; and

WHEREAS, the City Council considered the adoption of this ordinance during its regular meeting of August 20, 2015 and determined that the establishment of a transportation benefit district is in the public interest; Now, Therefore,

IT IS HEREBY ORDAINED BY THE BLACK DIAMOND CITY COUNCIL AS FOLLOWS:

Section 1. A new chapter 12.06 shall be added to the Black Diamond Municipal Code, which shall read as follows:

CHAPTER 12.06 TRANSPORTATION BENEFIT DISTRICT

Sections:

12.06.010	Purpose.
12.06.020	Establishing the Transportation Benefit District
12.06.030	Governing Board
12.06.040	Functions of the District
12.06.050	Transportation Improvements Funded
12.06.060	Dissolution of District
12.06.070	Liberal Construction.

12.06.010 Purpose. The purpose of this chapter is to establish a transportation benefit district (TBD) pursuant to RCW 35.21.225 and chapter 36.73 RCW, consistent with the public interest, to provide adequate levels of funding for the preservation, maintenance and operations of the street transportation system of the City of Black Diamond.

12.06.020 Establishing the Transportation Benefit District. There is created a transportation benefit district to be known as the Black Diamond Transportation Benefit District or “District” with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

12.06.030 Governing Board.

A. The governing board of the Black Diamond Transportation Benefit District shall be the Black Diamond City Council, acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in chapter 36.73 RCW.

B. The treasurer of the Transportation Benefit District shall be the City Finance Director.

C. The Board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1). The policy must at least address material changes to cost, scope and schedule, the level of change that will require governing body involvement and how the governing body will address those changes. At a minimum, if the District funding participation in a transportation improvement exceeds its original cost by more than twenty percent (20%) as identified in the District’s original plan, a public hearing shall be held to solicit public comment regarding how the cost change should be resolved.

D. The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

12.06.040 Functions of the District.

A. The District, by a majority vote of its governing board, may authorize a motor vehicle license fee of up to twenty dollars as provided in RCW 82.80.140 for the purposes set forth in this chapter and as may be subsequently authorized according to law.

B. The District may impose additional taxes, fees or charges authorized by RCW 36.73.040 or ad valorem property taxes authorized by RCW 36.73.060, only if approved by District voters pursuant to RCW 36.73.065.

C. The District shall have all powers and functions provided by chapter 36.73 RCW to fulfill the functions of the District, including the power to issue general obligation bonds and revenue bonds as provided in RCW 36.73.070, or form a local improvement district as provided in RCW 36.73.080.

12.06.050 Transportation improvements funded. The funds generated by the Transportation Benefit District may be used for transportation improvements that preserve, maintain, operate, construct and reconstruct the existing transportation infrastructure of the City, consistent with chapter 36.73 RCW, as it now exists or is hereafter amended. In addition to the foregoing, the funds generated may be used for any purpose allowed by law, including to operate the District and to make transportation improvements that are consistent with state, regional and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, pursuant to chapter 36.73 RCW. The District shall select to the extent practicable projects for funding that reduce the risk of transportation facility failure and improve safety, decrease travel time, increase daily and peak period trip capacity, improve modal connectivity, provide for economic development, improve accessibility for persons with special transportation needs, and preserve and maintain optimal performance of the infrastructure over time to avoid expensive infrastructure construction and replacement in the future.

All funds raised through the District shall be expended only for such construction, reconstruction, preservation, maintenance and operation in accordance with the provisions of chapter 36.73 RCW as it now exists or is hereafter amended. The funds expended by the District shall preserve, maintain, operate and improve the City's investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost effectiveness of the City's infrastructure investments, provide for economic development and continue the optimal performance of the transportation system.

Additional transportation improvement projects may be funded only after compliance with the provisions of RCW 36.73.050(2)(b) following notice, public hearing and enactment of an authorizing ordinance.

12.06.060 Dissolution of District. The District shall be automatically dissolved when all indebtedness of the District has been retired and when all of the District's anticipated responsibilities have been satisfied.

12.06.070 Liberal Construction. This chapter is to be liberally construed to accomplish the purpose of establishing a transportation benefit district with the broadest possible authority under chapter 36.73 RCW, as it now exists or is hereafter amended.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of _____ this ____nd day of _____, 2015.

Mayor

AUTHENTICATED:

City Clerk.

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

PUBLISHED:
EFFECTIVE DATE:

FAQs- Carol Morris provided

1. Authority of the district: (a) impose a sales and use tax under RCW 82.14.0455 (requires vote of voters in TBD area); (b) impose a fee on the construction or reconstruction of commercial and industrial buildings under RCW 36.73.120; (c) a vehicle fee in accordance with RCW 82.80.140; (d) vehicle tolls on state routes, city streets or county roads within the boundaries of the district.

2. Vehicle fee under RCW 82.80.140. The TBD can fix and impose an annual vehicle fee not to exceed \$100 per vehicle registered in the district for each vehicle subject to vehicle license fees. If more than \$20.00 is imposed, the process in RCW 36.73.065 is followed -- which requires an approval of the majority of voters in the TBD.

The TBD can impose by majority vote of the governing board of the TBD up to \$20.00 of the vehicle fee authorized under RCW 82.80.140.

If the TBD is county-wide, the revenues of the fee shall be distributed to each city within the county by interlocal agreement.

The Department of Licensing shall administer and collect the fee. A percentage will be deducted for administration and collection expenses incurred by the Department, not to exceed one percent of the fees collected.

3. The TBD can be established by the city or a county under RCW 36.73.020. The district may include area within more than one county, city, port district, etc., if the legislative authority of each participating jurisdiction has agreed to the inclusion in an interlocal agreement. RCW 36.73.020(2).

If there is a TBD with a county and city, then the governing board of the TBD shall be established by interlocal agreement. Otherwise, the governing board of a city is the city council. RCW 36.73.020(3).

4. The first step is to hold a public hearing for the adoption of an ordinance establishing the district. RCW 36.73.050.

5. The notice of the public hearing is supposed to specify the functions or activities to be provided or funded by the TBD. RCW 36.73.050(1).

6. The ordinance establishing the TBD must specify the functions and transportation improvements to be exercised or funded and establish the boundaries of the TBD. RCW 36.73.050.

No fee can be collected until six months after approval under RCW 36.73.065.

Certain vehicles are exempt from the fee, such as campers, farm tractors, mopeds, etc. (See, RCW 82.40.140(6).)

TRANSPORTATION BENEFIT DISTRICT SCHEDULE

DATE	MEETING	ACTION	
August 6 th	City Council	Public hearing; take testimony on TBD formation	<i>Published in paper on July 21st and 28th.</i>
August 6 th	City Council	Potentially pass ordinance establishing the TBD	<i>All ready in packet material.</i>
August 6 th	City Council	Set the first TBD meeting	
August 13 th	Normal Workshop	Council/TBD discussion; of various pending actions of the TBD	<i>Materials due to City Clerk on Wednesday, August 5th @ 10 a.m.</i>
August 20 th	First TBD Meeting	Establish the bylaws	<i>Materials due to City Clerk on Wednesday, August 12th @ 10 a.m.</i>
		set meeting dates	<i>Materials due to City Clerk on Wednesday, August 12th @ 10 a.m.</i>
		Appoint positions	<i>Materials due to City Clerk on Wednesday, August 12th @ 10 a.m.</i>
		Set license tab fee	<i>Materials due to City Clerk on Wednesday, August 12th @ 10 a.m.</i>
		Adopt material change policy	<i>Materials due to City Clerk on Wednesday, August 12th @ 10 a.m.</i>
		Set a hearing date for 2016 TBD budget	<i>If public hearing is September 17th I would need to get the notice to the paper on August 28th. Materials due to City Clerk on August 31st for posting to the website.</i>
September 17 th	Second TBD meeting	Take testimony on the 2016 TBD budget	
		Approve an interlocal agreement with the City of Black Diamond and forward	<i>Materials due to City Clerk on Wednesday, September 9th @ 10 a.m.</i>

		to the City for approval	
October 1 st	City council meeting	Approve an interlocal agreement with the BD TBD.	<i>Materials due to City Clerk on Wednesday, September 23rd.</i>
October 1 st	TBD meeting	Adopt a 2016 TBD budget	<i>Materials due to City Clerk on Wednesday, September 23rd.</i>

DRAFT – 6/8/15

BLACK DIAMOND, WASHINGTON
TRANSPORTATION BENEFIT DISTRICT
RESOLUTION NO. _____

A RESOLUTION OF THE BLACK DIAMOND, WASHINGTON,
TRANSPORTATION BENEFIT DISTRICT, AUTHORIZING A
TWENTY DOLLAR (\$20.00) VEHICLE LICENSE FEE PURSUANT
TO RCW 36.73.065 and RCW 82.80.140.

WHEREAS, the City Council of the City of Black Diamond has the responsibility under the Constitution of the State of Washington for the improvement, maintenance and protection of public ways within the corporate limits of the City of Black Diamond, pursuant to RCW 35.23.440(33) and chapter 35.77 RCW; and

WHEREAS, chapter 36.73 RCW provides for the establishment of transportation benefit districts (TBD) by cities and counties and authorization to levy and impose various taxes and fees to generate revenue to support transportation improvements within the district that are consistent with state, regional or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, the City's Transportation Improvement Plan (TIP), the transportation element of the City's Comprehensive Plan, and the _____, all outline the key strategies, objectives and investments for improving safety, mobility, modal connectivity and access through providing effective transportation choices; and

WHEREAS, the Black Diamond City Council created the Black Diamond Transportation Benefit District in Ordinance No. _____; and

WHEREAS, RCW 36.73.040(3)(b) authorizes a transportation benefit district to impose a vehicle fee in accordance with RCW 82.80.140; and

WHEREAS, RCW 36.73.065(4)(a)(i) allows a transportation district that includes all of the territory within the boundaries of the jurisdiction establishing the district to impose, by majority vote of the governing board of the district, a vehicle fee of up to \$20.00, as authorized in RCW 82.80.140; and

WHEREAS, since 2009, the City of Black Diamond's street revenues from the State Gas Tax and other sources have declined by nearly \$50,000, the General Fund has declined by _____ and Real Estate Excise Tax has declined by _____, the cost of operations and maintenance has gone up by approximately \$70,000; and

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Comment [SB1]: May I need help here

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WHEREAS, the Governing Board of the Black Diamond Transportation Benefit District finds that it is appropriate to establish a twenty-dollar annual vehicle license fee that will generate an estimated \$_____ \$81,000 annually and make investments to enhance pedestrian, bicycle and vehicle mobility within the District boundaries; and

WHEREAS, in accordance with RCW 82.80.140(4), the TBD may fix and impose an annual \$20.00 vehicle license fee, but no fee may be collected until six months after approval under RCW 36.73.065; and

WHEREAS, it is the expectation of the Black Diamond Transportation Benefit District to contract with the City of Black Diamond to utilize revenues for transportation purposes; and

WHEREAS, the Black Diamond Transportation Benefit District considered the adoption of this Resolution during its first regular meeting of _____, August 20, 2016; Now, Therefore,

IT IS HEREBY RESOLVED BY THE BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT AS FOLLOWS:

Section 1. Fee Imposed. An annual vehicle license fee in the amount of twenty dollars (\$20.00) is established consistent with RCW 36.73.065, to be collected by the Washington State Department of Licensing on qualifying vehicles, as set forth in RCW 82.80.140 and chapters 36.73 and 46.16 RCW.

Section 2. Use of Revenues. The revenues generated by the license fee shall be used in accordance with the purposes set forth in ~~POMC-BDMC~~_____. The District plans to contract with the City of Black Diamond to utilize the revenues generated from the annual vehicle license fee as follows, after accounting for costs associated with the collection and disbursement of revenues for and administering the Black Diamond Transportation Benefit District:

- A. ~~Preservation, Operations~~ and maintenance of the District's transportation infrastructure;
- B. Enhancing bicycle and pedestrian safety and mobility within the District;
- and
- C. Improving mobility and safety for people with disabilities.

Section 3. Implementation. The Black Diamond Transportation Benefit District requests that the City Clerk for the City of Black Diamond notify the Washington State Department of Licensing of the vehicle license fee established in Section 1 of this Resolution and to request that the Department of Licensing take all the steps necessary to implement collection of this fee no later than _____, in accordance with RCW 82.80.140.

Comment [SB2]: May I need help here

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PASSED by the Black Diamond Transportation Benefit District this ____nd day of
____, 2015.

Chairperson, Carol Benson

AUTHENTICATED:

City Brenda Martinez Clerk of the
Board

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

DRAFT – June 8, 2015

BYLAWS OF THE BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT

ARTICLE 1 – MEMBERSHIP

Section 1.1 Membership. Each member of the Black Diamond City Council shall be an ex officio member of the Board of the District.

ARTICLE 2 – OFFICERS, APPOINTEES AND COMMITTEES

Section 2.1 Officers Designated. The officers of the Board shall be a Chairperson, Vice Chairperson, Treasurer and the Executive Director. The Mayor of Black Diamond shall serve as the ex officio Chairperson. The City of Black Diamond Mayor Pro-Tem shall serve as the ex officio Vice Chairperson. The City of Black Diamond Finance Director shall serve as the ex officio Treasurer. The Chair of the City of Black Diamond Public Works Committee shall serve as the ex-officio Executive Director. No person may simultaneously hold more than one office. In addition to the powers and duties specified below, the officers shall have such powers and perform such duties as the Board may prescribe. The Black Diamond City Clerk, shall be the appointed ex officio Clerk of the Board shall be the District's registered agents for purposes of service of process.

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Section 2.2 Election, Qualification and Term of Office. The Vice Chairperson shall be elected by the Board from among its members at the first regular meeting each year, for a ____ year term, and each officer shall hold office during said ____ year term until his or her successor is elected. The first officers of the Board shall be elected by the Board at its first meeting. Officers may, at the discretion of the Board, hold their respective offices for successive terms.

Comment [SB1]: 2.1 is offices by designation and this is by election. Are these options that the council will need to decide?

Section 2.3 Powers and Duties. The officers of the Black Diamond Transportation Benefit District ("TBD" or "District") shall have the following duties:

A. Chairperson. The Chairperson shall serve as the ceremonial head of the District and shall preside over all Board meetings. On matters decided by the District, unless otherwise required under Interlocal Agreement or these Bylaws, the signature of the Chairperson alone or the ____, as authorized by the Board, is sufficient to bind the District. The City Clerk, as ex officio Clerk of the Board shall be the District's registered agents for purposes of service of process.

Comment [SB2]: I moved the clerk stuff up to 2.1

B. Vice Chairperson. The Vice Chairperson shall serve in the absence of the Chairperson as the ceremonial head of the District and shall preside over Board meetings in the Chairperson's absence and shall otherwise execute the Chairperson's powers and duties.

C. Treasurer. The Treasurer shall receive and faithfully keep all funds of the District and deposit the same in such bank or banks as may be designated by the District Board of Directors. The Treasurer shall also discharge such other duties as may be prescribed by the District board of Directors.

D. Executive Director. The Executive Director shall, subject to the lawful control of the Board, exercise general supervision, direction and control of the business and affairs of the District.

Comment [SB3]: I don't think that we should have this position as it may just cause conflict. I cannot think of what this position would be in charge of or do that would not conflict with the City or other positions like the chair and the vice chair. Is this the person that would sign official documents?

Comment [SB4]: If the Chair runs meetings and signs documents is this position needed?

Section 2.4 Establishment of Committees.

A. Committees of the Board. The Board may, by resolution, designate from among its members one or more committees, each consisting of at least two members, to represent the Board and, where consistent with these bylaws, and chapter 36.73 RCW, act for and on behalf of the Board. The designation of any such committee and the delegation thereto of authority shall not operate to relieve any member of the Board from any responsibility imposed by law. All actions of the District require the vote of the Board.

B. Citizen Committees. The Board may, by resolution, designate from outside its membership one or more committees, each consisting of at least two members, to advise the Board.

Section 2.5 Removal from Office. Upon reasonable prior notice to all Board members of the alleged reasons for dismissal, the Board, by an affirmative vote of the majority of the quorum, may remove any officer of the Board from his or her office whenever in its judgment the best interests of the District will be served thereby. An officer so removed shall continue to serve on the Board.

ARTICLE 3 – MEETINGS

Section 3.1 Regular Board Meetings. Beginning in its second year, regular Board meetings shall be scheduled by the Board through a resolution in January of each year. At any regular meeting of the Board, any business may be transacted and the Board may exercise all of its powers.

Section 3.2 Special Board Meetings. Special meetings of the Board may be held at any place and at any time whenever called by the Chairperson or by a majority of the members of the Board.

Section 3.3 Notice of Regular Board Meetings. Notice of meetings shall be given in a manner consistent with the Open Public Meetings Act, chapter 42.30 RCW. In addition, the District shall provide reasonable notice of meetings to any individual specifically requesting it in writing.

Section 3.4. Notice of Special Board Meetings. Notice of all special meetings of the Board shall be given by the _____ or by the person(s) calling the special meeting by following the procedure set forth in RCW 42.30.080. In addition, the TBD shall provide notice of special meetings to any individual specifically requesting such notice in writing. The time and place of the special meeting and the business to be transacted shall be specified in the notice. Final disposition shall not be taken at a special meeting on any matter not referenced in the notice.

Section 3.5 Waiver of Notice. Notice as provided in Sections 3.3 and 3.4 hereof may be dispensed with as to any member of the Board who, at or prior to the time the meeting convenes, files with the Board of the TBD a written waiver of notice or who is actually present at the meeting at the time it convenes. Such notice may also be dispensed with when a meeting is called to address an emergency. Notice concerning proposed amendments to the Bylaws and votes on such amendments, may not be waived.

Section 3.6 Procedure. *Robert's Rules of Order* as applied to public governing bodies, shall be considered on all questions of procedure and parliamentary law not otherwise provided for by ordinance, statute or these Bylaws; PROVIDED that with the concurrence of a majority of those members present at a meeting, such rules may be waived or modified. PROVIDED FURTHER, that failure to follow such rules will not in itself constitute grounds for invalidating any Board action. Where consistent with state law, the procedures of the City of Black Diamond City Council will govern as the procedures of the Board.

Section 3.7 Public Comment. Opportunity for public comment at Board meetings shall be required through public hearing when the Board considers adoption of (1) its annual plan for service; (2) material change policy; (3) imposition of any tax, charge or fee, and (4) response to a material change; PROVIDED, that the Board may, from time to time, in its sole discretion, permit public comment regarding additional topics.

Section 3.8 Proxies Prohibited. Votes may be cast at Board meetings only by members of the Board in attendance at the meeting, either in person or by electronic means. Voting by proxy shall be prohibited.

ARTICLE 4 – AMENDMENTS TO BYLAWS

Section 4.1 Proposals to Amend Bylaws. Any Board member may introduce a proposed amendment to the Bylaws (which may consist of new Bylaws) at any regular meeting, or at any special meeting for which thirty (30) days' advance notice has been given.

Section 4.2 Board Consideration of Proposed Amendments. If notice of a proposed amendment to the Bylaws, and information including the text of the proposed amendment and a statement of its purpose and effect, is provided to members of the Board fifteen (15) days prior to any regular Board meeting or any special meeting of

which thirty (30) days' advance notice has been given, then the Board may vote on the proposed amendment at the same meeting as the one at which the amendment is introduced. If such notice and information is not so provided, the Board may not vote on the proposed amendment until the next regular Board meeting or special meeting of which thirty (30) days' advance notice has been given and at least fifteen (15) days prior to which meeting such notice and information is provided to Board members. Changes to the proposed amendment that are within the scope of the original amendment will be permitted at the meeting at which the vote is taken.

ARTICLE 5 – ADMINISTRATIVE PROVISIONS

Section 5.1 Books and Records. The TBD shall keep current and complete books and records of account and shall keep minutes of the proceedings of its Board and its committees. The TBD shall maintain all public records according to the schedule adopted by the State Archivist, to ensure compliance with chapter 42.56 RCW, the Public Records Act.

Section 5.2 Principal Office. ~~The principal office and mailing address of the Black Diamond Transportation Benefit District shall be located at Black Diamond City Hall at _____ P.O. 599, Black Diamond, WA 98010. The principal office of the Black Diamond Transportation Benefit District shall be 24301 Roberts Drive, Suite B, Black Diamond, WA 98010~~

Section 5.3 Fiscal Year. The Fiscal Year of the TBD shall begin January 1 and end December 31 of each year, except the first fiscal year which shall run from the date the Bylaws were adopted to December 31, 2015.

Section 5.4 Policies Applicable to Board Members and Employees. The administrative policies of the City of Black Diamond shall be the policies of the Board.

ARTICLE 6 – APPROVAL OF BYLAWS

Adopted by the Black Diamond Transportation Benefit District on the ____ day of _____, 2015.

BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT

By: Carol Benson, Chairperson

ATTEST:

City Clerk Brenda Martinez, Clerk of the Board,

APPROVED AS TO FORM:

City Attorney or ex officio TBD Attorney

DRAFT – 6/9/15

BLACK DIAMOND, WASHINGTON
TRANSPORTATION BENEFIT DISTRICT
RESOLUTION NO. _____

AN ORDINANCE OF THE CITY OF BLACK DIAMOND,
WASHINGTON, TRANSPORTATION BENEFIT DISTRICT,
ADOPTING THE MATERIAL CHANGE POLICY AS REQUIRED BY
RCW 36.73.160(1).

WHEREAS, the Black Diamond City Council created the Black Diamond
Transportation Benefit District in Ordinance No. _____; and

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WHEREAS, chapter 36.73 RCW requires that the Transportation Benefit District
adopt a Material Change Policy; and

WHEREAS, the Black Diamond Transportation Benefit District considered the
adoption of this Resolution during its regular meeting of _____, 2015;
Now, Therefore,

IT IS HEREBY RESOLVED BY THE BLACK DIAMOND TRANSPORTATION
BENEFIT DISTRICT AS FOLLOWS:

Section 1. Material Change Policy.

A. *Material Change to Cost.* In the event an approved transportation
improvement exceeds the adopted budget by more than twenty per cent (20%) as
approved annually by the Governing Board, the Board shall hold a public hearing to
solicit comments from the public regarding the manner in which the cost change should
be resolved. TBD Staff shall consult with the Board Chair prior to setting the public
hearing.

B. *Material Change Scope.* In the event that the scope of a transportation
improvement materially changes from that originally anticipated at the time of the
annually adopted budget by the TBD Board, the TBD Staff shall determine whether or
not to convene a meeting of the Board for discussion.

C. *Material Change to Schedule.* In the event that the schedule of a
transportation improvement materially changes in a way that significantly impacts other
TBD budget levels or the schedule changes exceed ninety (90) days, the TBD staff shall
consult with and review such changes with the Board Chair. The Board Chair shall
determine whether or not to convene a meeting of the Board for discussion.

PASSED by the Black Diamond Transportation Benefit District this ____nd day of
____, 2015.

Chairperson, Carol Benson

AUTHENTICATED:

City Clerk

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

PUBLISHED:
EFFECTIVE DATE: