



CITY OF BLACK DIAMOND
November 2, 2017 Regular Business Meeting Agenda
25510 Lawson St., Black Diamond, Washington

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

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

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. 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.

CONSENT AGENDA:

- 1) **Claim Checks** – November 2, 2017 - No. 45458 through No. 45515 (void 45371) in the amount of \$189,953.35
- 2) **Minutes** – Council Work Session of October 12, 2017
- 3) **Minutes** – Town Hall Meeting of October 12, 2017
- 4) **Minutes** – Council Meeting of October 19, 2017

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

- 5) **AB17-059A** – Resolution Authorizing an Interlocal Agreement for Jail Services with Yakima County Department of Corrections Chief Kiblinger
- 6) **AB17-060A** – Resolution Approving Second Addendum to Prosecution Contract with Kara Murphy Richards Mayor Benson
- 7) **AB17-061A** – Resolution Accepting Stormwater Capacity Grant from the Department of Ecology Mr. Boettcher

NEW BUSINESS:

- 8) **AB17-062** – Resolution Authorizing Yearly Addendum to Valley Communications Agreement Chief Kiblinger
- 9) **AB17-063** – Resolution Confirming Mayor's Appointment of Municipal Court Judge and Authorizing a Judicial Services Agreement Mayor Benson

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

- Councilmember Deady
- Councilmember Morgan

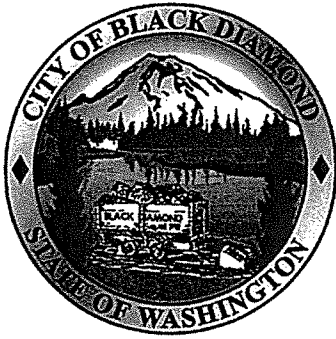
- Councilmember Edelman
- Councilmember Weber
- Councilmember Pepper

ATTORNEY REPORT:

PUBLIC COMMENTS:

EXECUTIVE SESSION: To discuss with Labor Attorney collective bargaining pursuant to RCW 42.30.140(4)

ADJOURNMENT:



CERTIFICATION

Date: November 2nd, 2017 Council Meeting

Check No.'s/EFT Batch Name Check/EFT Date Amount

45458-45510	October – 3 rd October Batch for 11/02 Council	11/03/2017	\$ 182,138.46
V45371	October – October Void Batch for 11/02 Council	11/03/2017	\$ (68.00)
45511-45515	November – 1 st November Batch for 11/02 Council	11/03/2017	\$ 7,882.89
		TOTAL	\$ 189,953.35

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY, THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED AND OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF BLACK DIAMOND, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

MAY MILLER
MAY MILLER, FINANCE DIRECTOR

CAROL BENSON, MAYOR

10-28-2017
DATE

DATE

COUNCILMEMBERS

DATE

Register

Fiscal: 2017

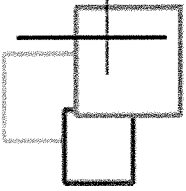
Deposit Period: 2017 - November, 2017 - October

Check Period: 2017 - November - 1st November Batch for 11/02 Council, 2017 - October - October Void Batch for 11/02 Council, 2017 - October - 3rd October Batch for 11/02 Council

Number	Name	Print Date	Amount
Check			
<u>45458</u>	AHBL, Inc.	11/3/2017	\$47,045.42
<u>45459</u>	AWC	11/3/2017	\$75.00
<u>45460</u>	Beatriz Jordan	11/3/2017	\$140.66
<u>45461</u>	BHC Consultants, LLC	11/3/2017	\$15,384.50
<u>45462</u>	Black Diamond Auto Parts	11/3/2017	\$53.17
<u>45463</u>	Cadman, Inc.	11/3/2017	\$230.78
<u>45464</u>	CenturyLink (AZ)	11/3/2017	\$31.24
<u>45465</u>	CenturyLink (WA)	11/3/2017	\$1,041.28
<u>45466</u>	CHS/Cenex	11/3/2017	\$1,751.42
<u>45467</u>	City of Enumclaw	11/3/2017	\$1,848.80
<u>45468</u>	City of Issaquah	11/3/2017	\$1,552.00
<u>45469</u>	City of Lake Forest Park	11/3/2017	\$100.00
<u>45470</u>	City of Maple Valley	11/3/2017	\$731.25
<u>45471</u>	Comcast (34744)	11/3/2017	\$322.51
<u>45472</u>	Dan & Diana Peterson	11/3/2017	\$124.29
<u>45473</u>	Department of Health	11/3/2017	\$851.00
<u>45474</u>	Ferguson Enterprises, Inc	11/3/2017	\$2,565.78
<u>45475</u>	Ferrell's Fire Extinguisher Company, Inc.	11/3/2017	\$300.00
<u>45476</u>	Firestone Complete Auto Care	11/3/2017	\$21.71
<u>45477</u>	Greater Maple Valley-Black Diamond Chamber of Commerce	11/3/2017	\$40.00
<u>45478</u>	Hach Company	11/3/2017	\$842.36
<u>45479</u>	Home Depot Credit Service	11/3/2017	\$38.10
<u>45480</u>	Honey Bucket/Northwest Cascade Inc.	11/3/2017	\$89.00
<u>45481</u>	Intercom Language Services	11/3/2017	\$120.00
<u>45482</u>	Johnsons Home & Garden	11/3/2017	\$198.06
<u>45483</u>	Keating, Bucklin & McCormack, Inc., P.S.	11/3/2017	\$41,334.93
<u>45484</u>	King County Finance - I-Net	11/3/2017	\$375.00
<u>45485</u>	King County Radio Comm Services	11/3/2017	\$1,609.45
<u>45486</u>	King County Sheriff's Office	11/3/2017	\$2,816.00
<u>45487</u>	L.N. Curtis & Sons	11/3/2017	\$112.57
<u>45488</u>	Office Products Nationwide	11/3/2017	\$1,756.73
<u>45489</u>	Orkin Commercial Services	11/3/2017	\$85.99
<u>45490</u>	Owen Equipment Company	11/3/2017	\$3,410.04
<u>45491</u>	Palmer Coking Coal Company, LLP	11/3/2017	\$286.75
<u>45492</u>	Parametrix, Inc.	11/3/2017	\$5,889.20
<u>45493</u>	Perteet Inc.	11/3/2017	\$8,989.02
<u>45494</u>	PSI	11/3/2017	\$360.00
<u>45495</u>	Public Safety Testing, Inc	11/3/2017	\$198.00
<u>45496</u>	Puget Sound Clean Air Agency	11/3/2017	\$1,677.50
<u>45497</u>	Puget Sound Energy	11/3/2017	\$6,724.16

<u>45498</u>	Red the Uniform Tailor	11/3/2017	\$119.46
<u>45499</u>	Republic Services, Inc. #176	11/3/2017	\$875.12
<u>45500</u>	South Correctional Entity	11/3/2017	\$6,018.05
<u>45501</u>	Stephen Thompson	11/3/2017	\$26.63
<u>45502</u>	Summit Law Group	11/3/2017	\$4,597.50
<u>45503</u>	Tony Feeney	11/3/2017	\$201.25
<u>45504</u>	Valley Communications	11/3/2017	\$13,766.63
<u>45505</u>	Verizon Wireless	11/3/2017	\$1,396.83
<u>45506</u>	Voice of The Valley	11/3/2017	\$280.00
<u>45507</u>	Washington State Department of Ecology	11/3/2017	\$2,965.14
<u>45508</u>	Washington State Patrol	11/3/2017	\$12.00
<u>45509</u>	Washington Tractor	11/3/2017	\$688.18
<u>45510</u>	Water Management Laboratories, Inc.	11/3/2017	\$68.00
<u>V45371</u>	Water Management Laboratories, Inc.	11/3/2017	(\$68.00)
<u>45511</u>	ADT Security Services (PA)	11/3/2017	\$188.41
<u>45512</u>	Kara Murphy Richards	11/3/2017	\$2,000.00
<u>45513</u>	Melanie Thomas Dane	11/3/2017	\$2,000.00
<u>45514</u>	Safe Security	11/3/2017	\$52.48
<u>45515</u>	Sorci Family LLC	11/3/2017	\$3,642.00
	Total		\$189,953.35

Voucher Directory with Transaction Date



Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description Name	Title	Void Amount
AHBL, Inc.	45458	104222	8/31/2017	2017 - October - 3rd October Batch for 11/02 Council		
				BD On-Site On-Call Consulting 07/26/17-08/25/17	Prof Svs-Com Dev	\$8,583.22
				001-000-240-558-51-41-08	Res: 17-1152	\$8,583.22
		Total 104222				
	45458	104223	8/31/2017	2017 - October - 3rd October Batch for 11/02 Council		
				MDRT On-Call Review Services 07/26/17-08/25/17	MDRT Building Prof. Services	\$17,002.20
				001-000-246-558-70-41-00	Res: 17-1152	\$17,002.20
		Total 104223				
	45458	104241	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
				BD On-Site On-Call Consulting 08/26/17-09/25/17	Prof Svs-Com Dev	\$6,825.00
				001-000-240-558-51-41-08	Res: 17-1152	\$6,825.00
		Total 104241				
	45458	104242	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
				MDRT On-Call Review Services 08/26/17-09/25/17	MDRT Building Prof. Services	\$14,635.00
				001-000-246-558-70-41-00	Res: 17-1152	\$14,635.00
		Total 104242				
	Total 45458					\$47,045.42
	Total AHBL, Inc.					\$47,045.42

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
		Account Number	Name	Title	Amount

AWC

45459	55006	9/11/2017	2017 - October - 3rd October Batch for 11/02 Council		
		Regional Meeting - Federal Way			
		001-000-110-511-60-49-00	Training and Workshops		\$50.00
		Registration for J. Edelman			
	Total 55006				\$50.00
45459	55849	10/16/2017	2017 - October - 3rd October Batch for 11/02 Council		
		WA Clerk Paid Sick Leave Webinar			
		001-000-137-514-21-49-01	Workshops and Training		\$25.00
		Registration for B. Martinez			
	Total 55849				\$25.00
Total 45459					\$75.00
					\$75.00
Beatriz Jordan					
45460	1266	10/9/2017	2017 - October - 3rd October Batch for 11/02 Council		
		001-000-120-512-50-41-04	Court Interpreter		\$140.66
	Total 1266				\$140.66
Total 45460					\$140.66
Total Beatriz Jordan					\$140.66
BHC Consultants, LLC					
45461	0009229	10/9/2017	2017 - October - 3rd October Batch for 11/02 Council		
		BD On-Call Planning Services 07/22/17-09/22/17			
		001-000-240-558-51-41-01	Prof Svs.Comm Dev. Pass Thru		\$630.00
		Res: 16-1102			
		310-000-025-558-60-41-00	Comp Plan Update-Prof Svs		\$140.00
		Con: 135			
	Total 0009229				\$770.00
45461	0009240	10/11/2017	2017 - October - 3rd October Batch for 11/02 Council		
		Building Inspector Services 08/26/17-09/22/17			
		001-000-240-558-51-41-08	Prof Svs-Com Dev		\$14,614.50

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
		Account Number		Name	Amount

Res: 16-1102

Total 0009240					
Total 45461					\$14,614.50
Total BHC Consultants, LLC					\$15,384.50
Black Diamond Auto Parts					\$15,384.50
45462			9/19/2017	2017 - October - 3rd October Batch for 11/02 Council	
423992			001-000-210-521-10-48-01	Vehicle Maintenance & Repair	
Total 423992					\$53.17
Total 45462					\$53.17
Total Black Diamond Auto Parts					\$53.17
Cadman, Inc.					\$53.17
45463			10/19/2017	2017 - October - 3rd October Batch for 11/02 Council	
5466531			1903056556		
			101-000-000-542-70-48-01	Roadside Maint and tree removal	
Total 5466531					\$230.78
Total 45463					\$230.78
Total Cadman, Inc.					\$230.78
CenturyLink (AZ)					\$230.78
45464			10/11/2017	2017 - October - 3rd October Batch for 11/02 Council	
1422531450			09/12/17-10/11/17 Services		
			001-000-254-518-20-42-00	Facilities-Communication	
				Facilities-Old City Hall Main Line # 360-886-2560	
Total 1422531450					\$31.24
Total 45464					\$31.24
Total CenturyLink (AZ)					\$31.24

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number	Name	Title	

CenturyLink (WA)

45465	101117 CL	10/11/2017	2017 - October - 3rd October Batch for 11/02 Council		
		10/11/17-11/11/17 Services			
		001-000-120-512-50-42-00	Telephone/DSL		\$48.82
		PD/CT Security Line 253-631-1012 182B	Police Telephone/DSL/Air Cards		\$51.09
		001-000-214-521-20-42-00	Police-Fax 360-886-2901 325B		\$48.82
		001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$176.48
		Police-Line 2 360-886-2862 596B			
		001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$140.36
		Police-Main Line 253-631-1012 182B			
		001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$4.52
		Police-T1 Line-KC Inet 206-T54-3585 584B			
		001-000-270-576-80-42-00	Telephone/DSL/Radios		\$2.26
		PW Shop Allocation - 360-886-2523 656B			
		001-000-280-536-20-42-00	Telephone, DSL & Radios		\$24.88
		PW Shop Allocation - 360-886-2523 656B			
		101-000-000-542-90-42-01	Telephone/DSL/Radios		\$256.51
		PW Shop Allocation - 360-886-2523 656B			
		401-000-000-534-80-42-00	Telephone/DSL/Radios		\$27.14
		Water Reservoir 360-886-7235 830B			
		401-000-000-534-80-42-00	Telephone/DSL/Radios		\$53.41
		PW Shop Allocation - 360-886-2523 656B			
		407-000-000-535-80-42-00	Telephone/DSL/Radios		\$27.14
		Morganville Pump Station 360-886-2835 784B			
		407-000-000-535-80-42-00	Telephone/DSL/Radios		\$58.33
		PW Shop Allocation - 360-886-2523 656B			
		407-000-000-535-80-42-00	Telephone/DSL/Radios		\$48.82
		Old Lawson Pump Station 360-886-8146 712B			
		407-000-000-535-80-42-00	Telephone/DSL/Radios		\$45.56
		Diamond Glen Sewer 360-886-0537 580 B			
		407-000-000-535-80-42-00	Telephone/DSL/Radios		\$27.14
		Ridge Sewer Pump Station 360-886-0474 006B			
		410-000-000-531-10-42-00	Telephone/DSL/Radios		\$1,041.28
		PW Shop Allocation - 360-886-2523 656B			
		Total 101117 CL			\$1,041.28
		Total 45465			\$1,041.28
		Total CenturyLink (WA)			\$1,041.28

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number	Name	Title	
CHS/Cenex	45466	093017 CHS PD	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council	
		Sept 2017 PD Fuel			
		001-000-210-521-10-32-00		Fuel	
		Total 093017 CHS PD			
	Total 45466				\$1,751.42
	Total CHS/Cenex				\$1,751.42
					\$1,751.42
					\$1,751.42
	City of Enumclaw				
	45467	05136	10/3/2017	2017 - October - 3rd October Batch for 11/02 Council	
Total City of Enumclaw		Jail Services for September 2017			\$1,848.80
		001-000-211-523-60-49-00		Jail Costs	\$1,848.80
	Total 05136				\$1,848.80
	Total 45467				\$1,848.80
City of Issaquah					
45468	04-50008491	9/28/2017	2017 - October - 3rd October Batch for 11/02 Council		
Total City of Issaquah		Jail Services August, 2017			\$1,552.00
		001-000-211-523-60-49-00		Jail Costs	\$1,552.00
	Total 04-50008491				\$1,552.00
	Total 45468				\$1,552.00
City of Lake Forest Park					
45469	BlackDiamond	10/19/2017	2017 - October - 3rd October Batch for 11/02 Council		
Total City of Lake Forest Park		Website Update			\$100.00
		001-000-210-521-10-49-02		Memberships	\$100.00
	Total BlackDiamond				\$100.00
	Total 45469				\$100.00

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
		Account Number	Name	Title	Amount

City of Maple Valley					
45470	INV03521	10/19/2017	2017 - October - 3rd October Batch for 11/02 Council		
		September Services ILA Building Inspector Svcs			
		001-000-240-558-51-41-03	CD-Bldg /Code Inspc. Svcs		\$731.25
		Community Dev Building Inspector Hourly			\$731.25
	Total INV03521				\$731.25
Total City of Maple Valley					
Comcast (34744)					
45471	0106156 101617	10/16/2017	2017 - October - 3rd October Batch for 11/02 Council		
		10/25/17-11/24/17 Services			
		001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$95.00
		Police Internet Act 8498 34 014 0106156			\$95.00
	Total 0106156 101617				
45471	0106172 101017	10/10/2017	2017 - October - 3rd October Batch for 11/02 Council		
		10/17/17-11/16/17 Services			
		001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$3.28
		Police Cable TV Act 8498 34 014 0106172			\$3.28
	Total 0106172 101017				
45471	0122286 101217	10/12/2017	2017 - October - 3rd October Batch for 11/02 Council		
		10/22/17-11/21/17 Services			
		001-000-120-512-50-42-00	Telephone/DSL		\$224.23
		Court Phone Act 8498 34 014 0122286			\$224.23
	Total 0122286 101217				\$322.51
Total Comcast (34744)					\$322.51
Dan & Diana Peterson					
45472	092517 DDP	9/25/2017	2017 - October - 3rd October Batch for 11/02 Council		
		Water Refund			
		401-000-000-343-40-00-01	Water Charges		\$124.29

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number	Name	Title	

New Owner Effective 9/25/17

Total 092517 DDP
 Total 45472
 Total Dan & Diana Peterson
 Department of Health

45473
 N02790
 10/6/2017
 2017 - October - 3rd October Batch for 11/02 Council
 17-0805
 402-000-003-594-34-63-06
 Springs Main & N. Bank BPS Improvements
 Springs Water Project

Total N02790
 Total 45473
 Total Department of Health
 Ferguson Enterprises, Inc

45474
 0572699
 10/12/2017
 2017 - October - 3rd October Batch for 11/02 Council
 SRIII/520M
 401-000-000-534-80-31-04
 Water Meters

Total 0572699
 Total 45474
 Total Ferguson Enterprises, Inc
 Ferrell's Fire Extinguisher Company, Inc.

45475
 28569
 10/11/2017
 2017 - October - 3rd October Batch for 11/02 Council
 Annual Fire Extinguisher Servicing
 001-000-212-521-50-31-00
 PD Station
 001-000-212-521-50-31-00
 PD Warehouse
 001-000-215-521-10-48-00
 PD Marine
 001-000-248-518-20-48-00
 MDRT Modular
 Police Bldg Mtc Sup
 Police Bldg Mtc Sup
 Repairs and Maintenance VRF
 MDRT-Bldg/Gen Mtc Costs

Vendor	Transaction Number Transaction Reference	Invoice Date	Fiscal Description Name	Void Amount
	Account Number		Title	
	001-000-254-518-20-49-01	CD Modular	Facilities Bldg.Custodial & Maint.	\$20.00
	001-000-270-575-51-48-00	Gym	Gym Facility Repair & Maintenance	\$30.00
	101-000-000-544-90-48-01	PW Shop	PW Clearing-shared Shop Cost	\$60.00
	101-000-000-544-90-48-02	PW Vehicles	PW Clearing- Shared Veh/Equip Maint	\$120.00
	Total 28569			\$300.00
	Total 45475			\$300.00
Total Ferrell's Fire Extinguisher Company, Inc.				\$300.00
Firestone Complete Auto Care				
	45476	9/15/2017	2017 - October - 3rd October Batch for 11/02 Council	
	55986	001-000-181-518-30-48-00	Facility-Vehicle Mtc. & Repair	\$21.71
	Total 55986			\$21.71
Total 45476				\$21.71
Total Firestone Complete Auto Care				\$21.71
Greater Maple Valley-Black Diamond Chamber of Commerce				
	45477	10/18/2017	2017 - October - 3rd October Batch for 11/02 Council	
	10133	001-000-110-511-60-43-00	Lodging, Meals and Mileage	\$20.00
		T. Deady		
		001-000-110-511-60-43-00	Lodging, Meals and Mileage	\$20.00
		J. Edelman		
	Total 10133			\$40.00
Total 45477				\$40.00
Total Greater Maple Valley-Black Diamond Chamber of Commerce				\$40.00
Hach Company				
	45478	10/5/2017	2017 - October - 3rd October Batch for 11/02 Council	
	10663198	401-000-000-534-80-35-00	Small Tools & Safety Equip	\$842.36
	Total 10663198			\$842.36
Total 45478				\$842.36
Total Hach Company				\$842.36

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number		Name Title	
Home Depot Credit Service					
45479	1560969	10/19/2017	2017 - October - 3rd October Batch for 11/02 Council		
		PD Veh Maint.			
		001-000-210-521-10-48-01	Vehicle Maintenance & Repair		\$30.53
	Total 1560969				\$30.53
45479	1560970	10/19/2017	2017 - October - 3rd October Batch for 11/02 Council		
		PD Bldg Maint.			
		001-000-212-521-50-48-02	Police Bldg Repairs & Maintenance		\$7.57
	Total 1560970				\$7.57
Total 45479					\$38.10
Total Home Depot Credit Service					\$38.10
Honey Bucket/Northwest Cascade Inc.					
45480	0550446452	9/28/2017	2017 - October - 3rd October Batch for 11/02 Council		
		09/28/17-10/25/17 Services			
		001-000-270-576-80-31-00	Portable Restroom Facility		\$89.00
			Parks-Boat Launch Rental		\$89.00
	Total 0550446452				\$89.00
Total 45480					\$89.00
Total Honey Bucket/Northwest Cascade Inc.					\$89.00
Intercom Language Services					
45481	17-340	10/4/2017	2017 - October - 3rd October Batch for 11/02 Council		
		001-000-120-512-50-41-04	Court Interpreter		\$120.00
	Total 17-340				\$120.00
Total 45481					\$120.00
Total Intercom Language Services					\$120.00
Johnsons Home & Garden					
45482	420507	10/18/2017	2017 - October - 3rd October Batch for 11/02 Council		
		101-000-000-542-66-31-00	Sand & Salt - Snow & Ice		\$126.94
			Tarp to Cover Street Sand.		\$126.94
	Total 420507				\$126.94

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number	Name	Title	
45482	420686	10/24/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Total 420686	001-000-270-576-80-31-03	Operating Supplies		\$55.32
45482	420722	10/25/2017	2017 - October - 3rd October Batch for 11/02 Council		\$55.32
	Total 420722	401-000-000-534-80-31-01	W/tr. Operating Supplies		\$15.80
Total 45482					\$15.80
Total Johnsons Home & Garden					\$198.06
Keating, Bucklin & McCormack, Inc., P.S.					\$198.06
45483	9713	10/6/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Total 9713	OPMA	Legal Svs-Lawsuit-City OPMA		\$41,334.93
Total 45483		001-000-150-515-30-41-27			\$41,334.93
Total Keating, Bucklin & McCormack, Inc., P.S.					\$41,334.93
King County Finance - I-Net					\$41,334.93
45484	11006208	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Total 11006208	September	Police Comm KC I-Net		\$375.00
Total 45484		001-000-214-521-20-42-01			\$375.00
Total King County Finance - I-Net					\$375.00
King County Radio Comm Services					\$375.00
45485	12648	9/28/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Total 12648	09/01/17-09/30/17 Services	K/C 800 Mhz Radio Costs		\$1,609.45
Total 45485		001-000-214-521-20-41-03			\$1,609.45
Total King County Radio Comm Services					\$1,609.45

Vendor	Transaction Number Transaction Reference	Invoice Date Account Number	Fiscal Description Name Title	Void Amount
King County Sheriff's Office				
45486	17-0875	10/4/2017	2017 - October - 3rd October Batch for 11/02 Council	
		001-000-530-522-10-41-03	Annual KC Fire Investigation Fee	\$2,816.00
Total 45486	Total 17-0875			\$2,816.00
Total King County Sheriff's Office				
L.N. Curtis & Sons				
45487	INV130326	9/27/2017	2017 - October - 3rd October Batch for 11/02 Council	
		001-000-210-521-10-31-04	Uniforms	\$21.45
Total 45487	Total INV130326			\$21.45
45487	INV131077	9/29/2017	2017 - October - 3rd October Batch for 11/02 Council	
		001-000-210-521-10-31-04	Uniforms	\$91.12
Total 45487	Total INV131077			\$91.12
Total L.N. Curtis & Sons				
Office Products Nationwide				
45488	925102-0	8/22/2017	2017 - October - 3rd October Batch for 11/02 Council	
		PW 401-000-000-534-80-31-02	Office Supplies	\$101.27
Total 45488	Total 925102-0			\$101.27
45488	932000-0	9/27/2017	2017 - October - 3rd October Batch for 11/02 Council	
		PD 001-000-210-521-10-31-00	Operating Supplies	\$405.93
Total 45488	Total 932000-0			\$405.93
45488	934169-0	10/10/2017	2017 - October - 3rd October Batch for 11/02 Council	
		CD/PW 001-000-180-518-50-31-99	Office Supplies CD Bldg Clearing	\$19.34
Total 45488	Total 934169-0			\$19.34

Vendor		Transaction Number		Transaction Reference		Invoice Date		Fiscal Description		Void	
								Name		Amount	
				Account Number				Title			
45488	934172-0	CH	10/10/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-180-518-50-31-00						Office Supplies City Hall		\$301.83	
	Total 934172-0									\$301.83	
45488	934368-0	MDRT	10/11/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-246-558-70-31-00						Office Supplies		\$127.96	
	Total 934368-0									\$127.96	
45488	934395-0	CH	10/11/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-180-518-50-31-00						Office Supplies City Hall		\$30.40	
	Total 934395-0									\$30.40	
45488	934952-0	Crt	10/13/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-120-512-50-31-00						Operating Supplies		\$174.12	
	Total 934952-0									\$174.12	
45488	935293-0	Bldg Maint	10/16/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-254-518-20-31-00						Facilities Operating Supplies		\$74.16	
	Total 935293-0									\$74.16	
45488	935293-1	Bldg Maint	10/18/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-254-518-20-31-00						Facilities Operating Supplies		\$6.97	
	Total 935293-1									\$6.97	
45488	936315-0	Crt	10/23/2017	2017 - October - 3rd October Batch for 11/02 Council							
		001-000-120-512-50-49-02						Printing and Binding		\$39.09	
	Total 936315-0									\$39.09	

Vendor		Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
			Account Number		Name Title	Amount
45488		936521-0	10/23/2017	2017 - October - 3rd October Batch for 11/02 Council		
		PW	001-000-180-518-50-31-99	Office Supplies CD Bldg Clearing	\$131.94	
		Total 936521-0			\$131.94	
45488		936523-0	10/23/2017	2017 - October - 3rd October Batch for 11/02 Council		
		CH	001-000-180-518-50-31-00	Office Supplies City Hall	\$114.57	
		Total 936523-0			\$114.57	
45488		936523-1	10/24/2017	2017 - October - 3rd October Batch for 11/02 Council		
		CH	001-000-180-518-50-31-00	Office Supplies City Hall	\$229.15	
		Total 936523-1			\$229.15	
					\$1,756.73	
Total 45488						\$1,756.73
Total Office Products Nationwide						
Orkin Commercial Services						
45489		162686732	10/2/2017	2017 - October - 3rd October Batch for 11/02 Council		
		October Services	001-000-212-521-50-48-02	Police Bldg Repairs & Maintenance	\$85.99	
		Total 162686732			\$85.99	
					\$85.99	
Total 45489						\$85.99
Total Orkin Commercial Services						
Owen Equipment Company						
45490		00085894	10/6/2017	2017 - October - 3rd October Batch for 11/02 Council		
		Locator Kit	001-000-246-558-70-35-00	Small Tools and Safety Equipment	\$3,410.04	
		Total 00085894			\$3,410.04	
					\$3,410.04	
Total 45490						\$3,410.04
Total Owen Equipment Company						\$3,410.04

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
		Account Number	Name	Title	Amount
Palmer Coking Coal Company, LLP					
	45491		10/19/2017	2017 - October - 3rd October Batch for 11/02 Council	
		1720	101-000-000-542-66-31-00	Sand & Salt - Snow & Ice	\$286.75
		Total 1720			\$286.75
	Total 45491				\$286.75
Total Palmer Coking Coal Company, LLP					
Parametrix, Inc.					
	45492		9/12/2017	2017 - October - 3rd October Batch for 11/02 Council	
		01-79505	MDRT TrafficEng Svcs		
			001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	\$541.25
			Con: 197		
		Total 01-79505			\$541.25
	45492		9/12/2017	2017 - October - 3rd October Batch for 11/02 Council	
		01-79508	MDRT Survey Services		
			001-000-257-558-70-41-06	MDRT Surveyor-Parametrix	\$2,960.00
			Con: 137		
		Total 01-79508			\$2,960.00
	45492		9/21/2017	2017 - October - 3rd October Batch for 11/02 Council	
		01-79559	Survey On-Call 07/30/17-09/01/17		
			320-000-020-595-10-63-00	Roberts Dr Rehab-Eng.	\$1,047.95
			Res: 15-1048		
		Total 01-79559			\$1,047.95
	45492		9/21/2017	2017 - October - 3rd October Batch for 11/02 Council	
		01-79560	Survey On-Call 07/30/17-09/01/17		
			310-000-004-595-62-63-02	Ginder Creek Trail	\$1,340.00
			Res: 15-1048		
		Total 01-79560			\$1,340.00
	Total 45492				\$5,889.20
	Total Parametrix, Inc.				\$5,889.20

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number	Name	Title	

Perfeet Inc.

45493	20170140.000-1	9/5/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Wetland Review for PEC 08/14/17-08/27/17				
	001-000-240-558-51-41-01		Prof Svs. Comm Dev. Pass Thru		\$1,732.10
	Con-204: PLN17-0023				
	Total 20170140.000-1				\$1,732.10
45493	20170140.000-2	10/11/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Wetland Review for PEC 08/28/17-10/01/17				
	001-000-240-558-51-41-01		Prof Svs. Comm Dev. Pass Thru		\$2,400.00
	Con-204: PLN17-0023				
	Total 20170140.000-2				\$2,400.00
45493	20170143.000-1	9/5/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Wetland Review for SSS 08/14/17-08/27/17				
	001-000-240-558-51-41-01		Prof Svs. Comm Dev. Pass Thru		\$2,421.92
	Con-204: PLN17-0052				
	Total 20170143.000-1				\$2,421.92
45493	20170143.000-2	10/11/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Wetland Review for SSS 08/14/17-08/27/17				
	001-000-240-558-51-41-01		Prof Svs. Comm Dev. Pass Thru		\$2,435.00
	Con-204: PLN17-0052				
	Total 20170143.000-2				\$2,435.00
Total 45493					\$8,989.02
Total Perfeet Inc.					\$8,989.02

PSI

45494	00528400	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
	Robetr Dr. Roadway Improv.				
	320-000-020-595-30-63-00		Roberts Dr Rehab-Roadway Const		\$360.00
	Total 00528400				\$360.00
Total 45494					\$360.00
Total PSI					\$360.00

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description Name Title	Void Amount
Public Safety Testing, Inc					
45495	2017-7757	10/17/2017	2017 - October - 3rd October Batch for 11/02 Council		
		Q3- July-Sept 2017		Civil Service Testing	\$198.00
		001-000-213-521-10-41-00			\$198.00
		Total 2017-7757			\$198.00
		Total 45495			\$198.00
Total Public Safety Testing, Inc					
Puget Sound Clean Air Agency					
45496	17-019S 3	1/6/2017	2017 - October - 3rd October Batch for 11/02 Council		
		3rd Qtr Assessment		PS Clean Air Assmt	\$838.75
		001-000-182-553-70-41-00			\$838.75
	Total 17-019S 3				
45496	17-019S4	1/6/2017	2017 - October - 3rd October Batch for 11/02 Council		
		4th Qtr Assessment		PS Clean Air Assmt	\$838.75
		001-000-182-553-70-41-00			\$838.75
	Total 17-019S4				\$1,677.50
	Total 45496				\$1,677.50
Total Puget Sound Clean Air Agency					
Puget Sound Energy					
45497	100617 PSE	10/6/2017	2017 - October - 3rd October Batch for 11/02 Council		
		09/01/17-10/02/17 Services		Electric/gas	\$57.13
		001-000-212-521-50-47-00		220013379882: Police Storage	
		001-000-248-518-20-47-00		MDRT Electricity	\$232.31
		001-000-254-518-20-47-00		220013379841: MDRT Mod Bldgs Elec	
		001-000-254-518-20-47-00		Facilities-Utilities	\$348.46
		001-000-254-518-20-47-00		220013379841: CD/PW Mod Bldgs Elec	
		001-000-254-518-20-47-00		Facilities-Utilities	\$42.21
		001-000-254-518-20-47-00		200008062016: City Hall Elec	
		001-000-254-518-20-47-00		Facilities-Utilities	\$147.02
		001-000-254-518-20-47-00		200008061844: City Hall Elec	
		001-000-270-575-30-47-00		Museum Electric/Gas	\$194.41
		220013378793: Museum			

Vendor	Transaction Number Transaction Reference	Invoice Date	Fiscal Description Name	Title	Void Amount
	001-000-270-575-51-47-00		220013379652: Gym	Gym- Electricity and Gas	\$105.41
	001-000-270-576-80-47-00		220013379635: PW Shop-Parks 4%	Electric/Gas	\$2.18
	001-000-270-576-80-47-00		220013379221: Lake Sawyer Boat Launch	Electric/Gas	\$10.84
	001-000-280-536-20-47-00		220013379635: PW Shop-Cemetery 2%	Electric/Gas	\$1.09
	101-000-000-542-63-47-01		220013379601: Baker St Crosswalk	Street Lighting	\$14.40
	101-000-000-542-63-47-01		22001337355: PSE Streetlights	Street Lighting	\$1,740.10
	101-000-000-542-63-47-01		220013379817: Ped Lighting Roberts	Street Lighting	\$28.13
	101-000-000-542-63-47-01		220013379197: Cov Sawyer & 216th	Street Lighting	\$46.81
	101-000-000-542-63-47-01		220013379247: 216th Signal & Street Lights	Street Lighting	\$10.84
	101-000-000-543-31-47-00		220013379635: PW Shop-Street 22%	Electric/Gas	\$11.99
	401-000-000-534-80-47-00		220013379635: PW Shop-Water 24%	Electric/Gas	\$13.08
	401-000-000-534-80-47-00		220013378835: Booster Station	Electric/Gas	\$2,951.06
	401-000-000-534-80-47-00		220013378868: 4.3 Mil Gal Resv	Electric/Gas	\$602.83
	401-000-000-534-80-47-00		220013378850: .5 Mil Gal Resv	Electric/Gas	\$18.67
	407-000-000-535-80-47-00		220013379635: PW Shop-Sewer 24%	Electric/Gas	\$13.08
	407-000-000-535-80-47-00		220013379619: Sewer Pump	Electric/Gas	\$11.97
	407-000-000-535-80-47-00		220013378819: Morganville Lift Station	Electric/Gas	\$75.45
	407-000-000-535-80-47-00		220013379643: Diamond Glen Sewer	Electric/Gas	\$31.61
	410-000-000-531-10-47-00		220013379635: PW Shop-Drainage 24%	Electric/Gas	\$13.08
	Total 100617 PSE				\$6,724.16
	Total 45497				\$6,724.16
	Total Puget Sound Energy				\$6,724.16

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number		Name Title	

Red the Uniform Tailor

45498	000V2427	10/10/2017	2017 - October - 3rd October Batch for 11/02 Council		
	PD	001-000-210-521-10-31-04	Uniforms		
	Total 000V2427				
Total 45498					\$119.46
Total Red the Uniform Tailor					\$119.46
Republic Services, Inc. #176					\$119.46

45499	5162828	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
	September Services				
	001-000-248-518-20-47-03	MDRT	MDRT-Waste Disposal Costs		\$158.90
	001-000-254-518-20-47-01	City Hall	Facilities-Waste Disposal		\$238.35
	Total 5162828				\$397.25

45499	5163160	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
	September Services				
	001-000-270-576-80-47-04	PW-Parks	Waste Disposal		\$10.78
	001-000-280-536-20-47-04	PW-Cemetery	Waste Disposal		\$5.39
	101-000-000-543-31-47-04	PW-Street	Waste Disposal		\$59.32
	401-000-000-534-80-47-04	PW-Water	Waste Disposal		\$64.71
	407-000-000-535-80-47-04	PW-Sewer	Waste Disposal		\$64.71
	410-000-000-531-10-47-04	PW-Drainage	Waste Disposal		\$64.71
	Total 5163160				\$269.62

45499	5163317	9/30/2017	2017 - October - 3rd October Batch for 11/02 Council		
	September Services				
	001-000-212-521-50-47-04		Waste Disposal		\$208.25

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void Amount
		Account Number	Name	Title	

Total 5163317
 Total 45499
 Total Republic Services, Inc. #176
 South Correctional Entity

45500 2738 10/10/2017 2017 - October - 3rd October Batch for 11/02 Council
 September 2017 Inmate Days Jail Costs
 001-000-211-523-60-49-00

Total 2738
 Total 45500
 Total South Correctional Entity
 Stephen Thompson

45501 091717 ST 9/17/2017 2017 - October - 3rd October Batch for 11/02 Council
 Water Refund Water Charges
 401-000-000-343-40-00-01 New Owner Effective 9/17/17

Total 091717 ST
 Total 45501
 Total Stephen Thompson

Summit Law Group
 45502 88116 10/19/2017 2017 - October - 3rd October Batch for 11/02 Council
 Services Through 09/30/17 Legal Svcs-Union Contracts
 001-000-150-515-30-41-08

Total 88116
 Total 45502
 Total Summit Law Group

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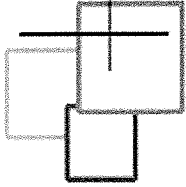
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Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description Name	Title	Void Amount
Tony Feeney	45503	092817 TF	9/28/2017	2017 - October - 3rd October Batch for 11/02 Council		
				Water Refund		
				401-000-000-343-40-00-01	Water Charges	\$201.25
				New Owner Effective 9/28/17		
	Total 45503	Total 092817 TF				\$201.25
	Total Tony Feeney					\$201.25
						\$201.25
	Valley Communications					
	45504	0021557	10/10/2017	2017 - October - 3rd October Batch for 11/02 Council		
				911 Calls Sep 2017		
Total Valley Communications				001-000-214-521-20-41-00	Valley Comm - Dispatch Service	\$13,766.63
	Total 45504	Total 0021557				\$13,766.63
	Total Valley Communications					\$13,766.63
						\$13,766.63
	Verizon Wireless					
	45505	9794265539	10/10/2017	2017 - October - 3rd October Batch for 11/02 Council		
				09/11/17-10/10/17 Services		
				001-000-120-512-50-42-00	Telephone/DSL	\$58.56
				Court		
				001-000-145-518-80-42-00	Communications	\$68.56
Verizon Wireless				IT		
				001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards	\$617.04
				Police		
				001-000-246-558-70-42-01	Telephones	\$117.12
				MDRT (Funding)		
				001-000-254-518-20-42-00	Facilities-Communication	\$58.56
				City Clerk (Funding)		
				001-000-270-576-80-42-00	Telephone/DSL/Radios	\$19.07
				PW/Facilities		
				001-000-280-536-20-42-00	Telephone, DSL & Radios	\$9.54
Verizon Wireless				PW/Facilities		
				101-000-000-542-90-42-01	Telephone/DSL/Radios	\$104.94
				PW/Facilities		

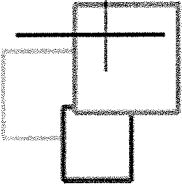
Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
		Account Number	Name	Title	Amount
Washington Tractor					
45509	1418464	101-000-000-544-90-48-02	2017 - October - 3rd October Batch for 11/02 Council	PW Clearing- Shared Veh/Equip Maint	\$688.18
Total 45509	Total 1418464				\$688.18
Total Washington Tractor					
Water Management Laboratories, Inc.					
45510	162241	401-000-000-534-80-41-02	2017 - October - 3rd October Batch for 11/02 Council	Water Testing and Sampling	\$21.00
Total 45510	Total 162241				\$21.00
45510	162415	401-000-000-534-80-41-02	2017 - October - 3rd October Batch for 11/02 Council	Water Testing and Sampling	\$47.00
Total 45510	Total 162415				\$47.00
Total Water Management Laboratories, Inc.					
Vendor Count 53					\$182,138.46
Grand Total					\$182,138.46

Voucher Directory with Transaction Date



Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description Name	Title	Void Amount
Water Management Laboratories, Inc.						
V45371	V160534	Credit, Invoice Paid 401-000-000-534-80-41-02 Void Check 45371	8/7/2017	2017 - October - October Void Batch for 11/02 Council	Water Testing and Sampling	(\$21.00)
	Total V160534					(\$21.00)
V45371	V160686	Credit, Invoice Paid 401-000-000-534-80-41-02 Void Check 45371	8/14/2017	2017 - October - October Void Batch for 11/02 Council	Water Testing and Sampling	(\$47.00)
	Total V160686					(\$47.00)
	Total V45371					(\$68.00)
Total Water Management Laboratories, Inc.						(\$68.00)
Vendor Count 1						Grand Total
						(\$68.00)

Voucher Directory with Transaction Date



Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description Name	Title	Void Amount
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ADT Security Services (PA)

45511	639451529		10/14/2017	2017 - November - 1st November Batch for 11/02 Council		
		10/30/17-1/29/18 City Hall Alarm Monitoring				
		001-000-254-518-20-49-00		Facilities Security		\$138.42
	Total 639451529					\$138.42
45511	639728130		10/13/2017	2017 - November - 1st November Batch for 11/02 Council		
		11/1/17-11/30/17 PW Shop Alarm Monitoring				
		001-000-270-576-80-49-02		Security		\$0.99
		001-000-280-536-20-49-02		Security		\$2.00
		101-000-000-542-90-49-03		Security		\$11.00
		401-000-000-534-80-49-07		Security		\$12.00
		407-000-000-535-80-49-05		Security		\$12.00
		410-000-000-531-10-49-04		Security		\$49.99
	Total 639728130					\$188.41
	Total 45511					\$188.41

Total ADT Security Services (PA)

Kara Murphy Richards

45512	103117 KMR		10/31/2017	2017 - November - 1st November Batch for 11/02 Council		
		November Services				
		001-000-151-515-30-41-04		Court Legal-Pros Attorney		\$2,000.00
	Total 103117 KMR					\$2,000.00
	Total 45512					\$2,000.00

Total Kara Murphy Richards

Vendor	Transaction Number	Transaction Reference	Invoice Date	Fiscal Description	Void
		Account Number	Name	Title	Amount

Melanie Thomas Dane

45513	103117 MTD	10/31/2017	2017 - November - 1st November Batch for 11/02 Council		
		November Services			
		001-000-120-512-50-41-00	Court Judge		\$2,000.00
	Total 103117 MTD				\$2,000.00
Total 45513					\$2,000.00

Total Melanie Thomas Dane

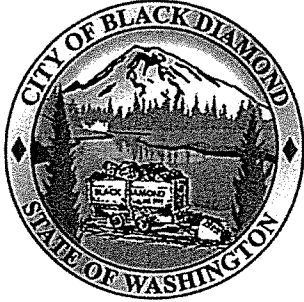
Safe Security

45514	3863803	10/12/2017	2017 - November - 1st November Batch for 11/02 Council		
		11/1/17-11/30/17 BD Storage Alarm Monitoring			
		101-000-000-544-90-48-01	PW Clearing-shared Shop Cost		\$52.48
	Total 3863803				\$52.48
Total 45514					\$52.48

Total Safe Security

Sorci Family LLC

45515	103117 SFLLC	10/31/2017	2017 - November - 1st November Batch for 11/02 Council		
		November Rent			
		001-000-248-518-20-45-02	MDRT Property Rental Cost		\$630.00
		001-000-254-518-20-45-02	Facilities-Prop Rental		\$944.00
		001-000-254-518-20-45-05	Facilities City Hall Bldg Rental		\$2,068.00
	Total 103117 SFLLC				\$3,642.00
Total 45515					\$3,642.00
Total Sorci Family LLC					\$3,642.00
Vendor Count 5				Grand Total	\$7,882.89



CITY OF BLACK DIAMOND
October 12, 2017 Regular Work Session and Town Hall Meeting Agendas
25510 Lawson Street, Black Diamond, Washington

REGULAR WORK SESSION AGENDA

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

- 1) DKS Contract and Comments from the Public
- 2) Adjournment

TOWN HALL MEETING AGENDA

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

- 1) Open Mic
- 2) Adjournment

BLACK DIAMOND CITY COUNCIL

WORK SESSION MINUTES

October 12, 2017

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular work session meeting to order at 6:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Edelman, Weber and Pepper.

ABSENT: Councilmember Morgan (excused).

Staff present: Dan Dal Santo, Interim Public Works Director; Kevin Esping, Facilities Coordinator, and Brenda L. Martinez, City Clerk.

Mayor Benson welcomed everyone and announced the one item for discussion on the agenda is the proposed ordinance regarding traffic concurrency management. She then turned the meeting over to Interim Public Works Director Dal Santo.

1) DKS Contract and Comments from the Public

Councilmember Weber commented on an email that was sent out today regarding changes to the DKS contract.

Councilmember Pepper noted contacting DKS by email to see if they would be willing to adjust in the following three areas in the Scope of Work:

- 1) Task 1, Planning Level Cost Estimates – change one week to three weeks
- 2) Task 2, Respond to City Comments– change to DKS will make revisions to the Draft Comprehensive Plan as proposed by the City in its comments. If DKS believes that any suggest revisions are inappropriate, it may state to the City the specific concerns and bases for them.
- 3) Task 4, City Staff Coordination -change to DKS will attend one meeting with Staff and City Council Growth Management Committee Members

There was back and forth discussion between Councilmembers regarding the proposed changes to the DKS contract as compared to what was provided earlier by DKS.

Peter Rimbo, representing the Technical Assistance Team (TAT) discussed with Council the comments sent in by TAT.

Bob Edelman spoke to Council regarding this contract.

Mr. Williamson reminded Council that whatever is done they need to move forward as plats are coming forward and they will vest under the current Comprehensive Plan. He discussed the process for adopting the updated Comprehensive Plan and noted the end date for the DKS contract is proposed for March 2018.

There was Council discussion on having this contract placed on the October 19 agenda for action.

ADJOURNMENT:

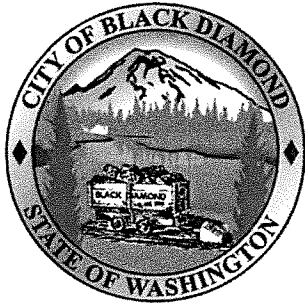
Councilmember Edelman **moved** to adjourn the meeting; **second** Councilmember Deady. Motion **passed** with all voting in favor (5-0).

Meeting ended at 6:51 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk



CITY OF BLACK DIAMOND
October 12, 2017 Regular Work Session and Town Hall Meeting Agendas
25510 Lawson Street, Black Diamond, Washington

REGULAR WORK SESSION AGENDA

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

- 1) DKS Contract and Comments from the Public
- 2) Adjournment

TOWN HALL MEETING AGENDA

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

- 1) Open Mic
- 2) Adjournment

BLACK DIAMOND CITY COUNCIL

TOWN HALL MINUTES

October 12, 2017

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular Town Hall meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Morgan, Edelman, Weber and Pepper.

ABSENT: None

Staff present: Andrew Williamson, MDRT/Ec Dev/Interim Community Development Director; May Miller, Finance Director; Dan Dal Santo, Utilities Superintendent, Natalie Oosterhof, Permit Tech; Kathy Allen, Deputy City Clerk, and Brenda L. Martinez, City Clerk.

Mayor Benson welcomed everyone and asked that those who want to speak to please raise their hand and they will then be called upon to address Council. She also noted that each speak has ten minutes to speak.

Citizens Addressing Council:

Pam McCain, Black Diamond addressed Council.

Peter Rimbos, unincorporated King County addressed Council

James Stout, Black Diamond addressed Council.

Bob Edelman, Black Diamond addressed Council.

Robbin Taylor, Black Diamond addressed Council.

Gary Davis, Black Diamond addressed Council.

Jamie Sawyer, Black Diamond addressed Council.

Chris Wisnoski, Black Diamond addressed Council

ADJOURNMENT:

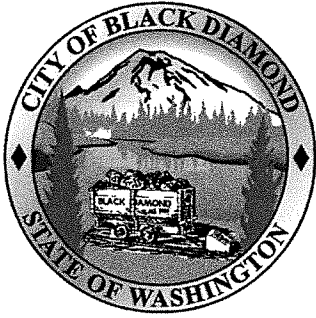
Councilmember Edelman **moved** to adjourn the meeting; **second** Councilmember Weber. Motion **passed** with all voting in favor (5-0).

Meeting ended at 8:01 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk



CITY OF BLACK DIAMOND
October 19, 2017 Regular Business Meeting Agenda -REVISED
10/18/17_AdoptedAgenda
25510 Lawson St., Black Diamond, Washington

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

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

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. 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.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

- | | |
|--|----------------|
| 5) AB17-057A – Resolution Granting Final Plat Approval for Ten Trails PP1A Division 1 Subdivision | Mr. Williamson |
| 6) AB17-058A – Resolution Approving Interlocal Agreement and Operating Procedures with South County Area Transportation Board (SCATBd) | Mayor Benson |
| 10)AB17-056A – Resolution Authorizing Professional Services Agreement with DKS Associates | Mr. Boettcher |

NEW BUSINESS:

- | | |
|---|-----------------|
| 7) AB17-059 – Resolution Authorizing an Interlocal Agreement for Jail Services with Yakima County Department of Corrections | Chief Kiblinger |
| 8) AB17-060 – Resolution Approving Second Addendum to Prosecution Contract with Kara Murphy Richards | Mayor Benson |
| 9) AB17-061 – Resolution Accepting Stormwater Capacity Grant from the Department of Ecology | Mr. Boettcher |

CONSENT AGENDA:

- 1) Claim Checks – October 19, 2017 - No. 45422 through No. 45457 and EFTs in the amount of \$478,861.71
- 2) Payroll – September 30, 2017 – No. 19408 through No. 19425 and ACHs in the amount of \$313,644.06
- 3) Minutes – Council Special Meeting of September 28, 2017
- 4) Minutes – Council Meeting of October 5, 2017

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

- Councilmember Deady
- Councilmember Morgan
- Councilmember Edelman
- Councilmember Weber
- Councilmember Pepper

ATTORNEY REPORT:

PUBLIC COMMENTS:

EXECUTIVE SESSION:

ADJOURNMENT:

BLACK DIAMOND CITY COUNCIL MINUTES

October 19, 2017

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Morgan, Edelman, Weber, and Pepper

ABSENT: None

Staff present were: Andrew Williamson, MDRT/Economic Development; Seth Boettcher, Public Works Director; Jamey Kiblinger, Police Chief; May Miller, Finance Director; Commander Larry Colagiovanni; David Linehan, City Attorney, and Brenda L. Martinez, City Clerk.

CHANGES TO AND APPROVAL OF AGENDA:

Councilmember Pepper moved that the consent agenda is placed at the end after new business per Council Rule 3.12 and with that change we approve the agenda; second Councilmember Morgan. Motion passed 4-1 (Deady).

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS: None

PUBLIC COMMENTS:

Leslie Cooley, Black Diamond spoke to Council.

Cheryl Hanson, Black Diamond Community Center Director spoke to Council.

Pat Nelson, Black Diamond spoke to Council.

Pam McCain, Black Diamond spoke to Council.

Tripp Hart, Enumclaw spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

Allison Stern, Black Diamond spoke to Council.

Nancy Rogers, Attorney representing Oakpointe spoke to Council.

James Stout, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Councilmember Weber called Mr. Edelman out of order for political statements.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

5) AB17-057A – Resolution Granting Final Plat Approval for Ten Trails PP1A Division 1 Subdivision

MDRT/Ec Dev/Interim Community Development Director Williamson reported to Council on this item. He also noted that the final action date for this item is October 30, 2017.

Councilmember Pepper **moved** to approve the resolution AB17-057A granting final plat approval for Ten Trails PP1A Division 1 Subdivision; **second** Councilmember Deady.

Roll Call Vote: Motion **passed** unanimously 5-0 with a roll call vote. Councilmember Deady, **aye**; Councilmember Morgan, **aye**; Councilmember Edelman, **aye**; Councilmember Weber, **aye**; Councilmember Pepper, **aye**.

6) AB17-058A- Resolution Approving Interlocal Agreement and Operating Procedures with South County Area Transportation Board (SCATBd)

Councilmember Morgan **moved** that the resolution is removed from committee and amended as follows. The amendment for the resolution on agreement with South County Area Transportation Board. There is a Section 2 added as follows: Section 2. The City Council has no confidence in the mayor as the city's representative and does not support Mayor Benson as the city's representative on South County Area Transportation Board.; **second** Councilmember Pepper.

There was Council discussion with Councilmember Morgan speaking to her motion.

During Councilmember Morgan speaking Mayor Benson asked the audience to please be quiet twice.

Also during Councilmember Morgan speaking to her motion Councilmember Edelman raised a point of order stating this has nothing to do with SCATBd and approving an interlocal agreement.

Councilmember Morgan continued to speak to her motion and during this Councilmember Deady called the question.

Councilmember Pepper stated she would like to call a recess.

There was discussion on having the question called.

Vote: Motion **passed** 4-1 (Deady).

10) AB17-061 – Resolution Authorizing Professional Services Agreement with DKS Associates

Public Works Director Boettcher addressed Council on this item.

Councilmember Pepper **moved** to approve the amended contract for resolution AB17-056A authorizing professional services agreement with DKS Associates; **second** Councilmember Weber.

There was Council discussion.

Roll Call Vote: Motion **passed** unanimously 5-0 with a roll call vote. Councilmember Deady, **aye**; Councilmember Morgan, **aye**; Councilmember Edelman, **aye**; Councilmember Weber, **aye**; Councilmember Pepper, **aye**.

NEW BUSINESS:

7) AB17-059 – Resolution Authorizing Interlocal Agreement for Jail Services with Yakima County Department of Corrections

Chief Kiblinger spoke to Council on this agenda item.

Councilmember Deady **moved** to adopt a resolution authorizing the Mayor to execute an Interlocal Agreement with Yakima County Department of Corrections for inmate housing; **second** Councilmember Edelman. (No vote taken)

There was Council discussion.

Councilmember Pepper **moved** this item is for first reading and assigned to the Government Operations Committee; **second** Councilmember Morgan. (No vote was taken)

Councilmember Deady **moved** to suspend the rules and we pass this tonight; **second** Councilmember Edelman. Motion **failed** 2-3 (Morgan, Weber, Pepper).

8) AB17-060 – Resolution Approving Second Addendum to Prosecution Contract with Kara Murphy

Mayor Benson reported to Council on this item.

Councilmember Pepper **moved** this item is for first reading and assigned to the Government Operations Committee; **second** Councilmember Morgan. (No vote taken; amended motion below passed).

There was Council discussion with focus being when this will come back to Council. Councilmember Weber stated he would like to see this come back at the next regular meeting if possible.

Councilmember Pepper **amended** her motion that this item is for first reading and assigned to the Government Operations Committee and to be brought forth for consideration on November 2, 2107 at the regular Council meeting; **second** Councilmember Weber. Motion **passed** 3-2 (Deady, Edelman).

9) AB17-061 – Resolution Accepting Stormwater Capacity Grant from the Department of Ecology

Public Work Director Boettcher presented this item to Council.

Councilmember Pepper **moved** to postpone this to November 2 and have this item for first reading and assigned to the Growth Management Committee; **second** Councilmember Morgan.

There was Council discussion.

Vote: Motion **passed** 3-2 (Deady, Edelman).

CONSENT AGENDA:

Councilmember Weber stated he would like to address each consent agenda item separately.

- 1) Claim Checks –** October 19, 2017 - No. 45422 through No. 45457 and EFTs in the amount of \$478,861.71

Councilmember Weber noted he would like to pull invoice number 45438 (Kenyon Disend) and 45449 (RH2) and stated his reasons and **moved** the rest of the claim checks be paid; **second** Councilmember Morgan.

There was Council discussion.

Vote: Motion **passed** with all voting in favor (5-0).

- 2) Payroll –** September 30, 2017 – No. 19408 through No. 19425 and ACHs in the amount of \$313,644.06

Councilmember Weber **moved** to pay the payroll; **second** Councilmember Edelman. Motion **passed** with all voting in favor (5-0).

- 3) Minutes –** Council Special Meeting of September 28, 2017

Councilmember Weber **moved** to approve the minutes of the Council Special meeting of September 28, 2017; **second** Councilmember Edelman. Motion **passed** with all voting in favor (5-0).

- 4) Minutes –** Council Meeting of October 5, 2017

Councilmember Weber **moved** that the Council minutes for October 5, 2017 be approved; **second** Councilmember Deady. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS:

Public Works Director Boettcher discussed how momentous this evening was with the approval of the final plats. He commended Andy Williamson for sticking with this and being diligent, having a high level of integrity, and for being a skilled manager. He then proceeded to give background information on the development.

MAYOR'S REPORT:

Mayor Benson reported attending a three-hour meeting with staff and Councilmember Morgan to review the final plat; she participated in the candidate forums at the Black Diamond Community Center and the Chamber Luncheon and noted her opponent did not show up; she also reported attending the STEM luncheon for the Enumclaw School District.

COUNCIL REPORTS:

Councilmember Deady reported that October is Domestic Violence month; attending the STEM luncheon, Chamber luncheon, public safety issues meeting, tour of Ten Trails with Mr. Williamson and noted being excited for the next phases, meeting to review the vouchers, Harvest Moon Dinner and Auction at the Black Diamond Community Center, Town Hall and Work Session on DKS.

Councilmember Morgan discussed the three-hour meeting with staff on PP1A and noted there being over 100 conditions of approval for the first plat. She noted going over every single one of them and looking over the staff's and developer's answers to those conditions and it being really important to understand what staff's position was on these. She also noted having a couple of questions and will get around to looking at the answers that were sent and added being confident to vote for the final plat.

Councilmember Edelman reported attending the public safety meeting, pre-PIC meeting and noted it being with Ann McFarland from Jurassic Parliament and the topic was on public comment periods. She also attended the PIC meeting, work session and town hall meetings, candidate forum, Chamber luncheon, and STEM luncheon. She discussed a potential future action item from PIC where she needs feedback from Council as she will be asked to vote on this. She noted the three issues are 1) Adjust the Property Tax Cap, 2) Invest in Public Health Services, and 3) Address the Housing and Homelessness Crisis (which has two parts). She added these are a policy decision for the PIC to take urging the Washington State Legislature to take action on in 2018.

Councilmember Deady stated being in support of these items. Councilmember Weber supports two through four (which #3 has two parts), but has an issue with item 1 and does not agree with it. Councilmember Morgan noted agreeing with Councilmember Weber. Councilmember Pepper commented that she is supportive of a conversation on all of these.

Councilmember Weber reported attending the budget meeting, town hall meeting and working on the plat information. He touched on something that disturbed him at the town hall meeting where a citizen spoke about services being cut off. He noted there is not any intent you can still make decisions as a Council to fund those services while you are still

working on the budget. He noted feeling bad for the citizens that take this as a fear thing and asked that as we move into this budget season that some of that rhetoric be kept at a minimum.

Councilmember Pepper reported attending the DKS work session and town hall meetings. She noted attending a PP1A subdivision tour and thanked Mr. Williamson and Ms. Martinez for being willing to go with her. She also noted attending the candidate forum at the Community Center and there being 70 plus in attendance, and the work session prior to tonight's meeting.

ATTORNEY REPORT: None

PUBLIC COMMENTS

Bob Edelman, Black Diamond spoke to Council.

Tina McGann, Black Diamond spoke to Council.

Gary Davis, Black Diamond spoke to Council.

Cheryl Hanson, representing the Black Diamond Community Center spoke to Council.

Johna Thomson, Black Diamond spoke to Council. During her comments she requested a copy of the citation Councilmember Morgan read from tonight during the SCABTd item.

Robbin Taylor, Black Diamond spoke to Council.

Councilmember Weber responded to Mrs. Taylor's comments where she discussed the lack of process involved in a lawsuit that was filed on Mayor Carol Benson. Councilmember Weber stated he would like to know how it is she knew about the lawsuit on October 11th, he hadn't heard anything about it. He further stated he didn't know about the filing date and that was interesting.

Leslie Cooley, Black Diamond spoke to Council.

Kristen Bryant, Black Diamond spoke to Council.

Jackie Buss, Black Diamond spoke to Council.

Andy Williamson, Black Diamond spoke to Council.

James Stout, Black Diamond spoke to Council.

Erin Stout, Black Diamond spoke to Council.

Mayor Benson discussed the lawsuit that was filed against her from the City Council, and also discussed the Motion to Intervene that was filed by Oakpointe. She also stated that one or two Council people, outside an open public meeting caused a lawsuit to be filed.

EXECUTIVE SESSION: None

ADJOURNMENT:

Councilmember Edelman moved to adjourn the meeting; second Councilmember Deady. Motion passed with all voting in favor (5-0).

The meeting ended at 8:53 p.m.

ATTEST:

Carol Benson, Mayor

Brenda Martinez, City Clerk

DRAFT

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: November 2, 2017	AB17-059A
Resolution authorizing the Mayor to execute an Interlocal Agreement with Yakima County Department of Corrections for inmate housing	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	X
Cost Impact (see also Fiscal Note): 4% increase	Public Works – Seth Boettcher	
Fund Source: --	Court – Stephanie Metcalf	
Timeline:		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Interlocal Agreement		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have placed this item on the agenda. This is a new (replacement) interlocal agreement with Yakima County Department of Corrections for inmate housing. This agreement has new language that provides a continuous term for up to five (5) years, instead of annual renewals, except when there is a rate increase and/or a language change. For 2018, there is an increase of 4%; \$57.20 to \$59.85 (daily fee.) FISCAL NOTE (Finance Department): This proposed increase is included in the 2018 preliminary budget.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt a resolution authorizing the Mayor to execute an Interlocal Agreement with Yakima County Department of Corrections for inmate housing.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
October 19, 2017	Postponed to Nov 2 meeting.	
November 2, 2017		

RESOLUTION NO. 17-XXXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE AN
INTERLOCAL AGREEMENT FOR JAIL SERVICES WITH
YAKIMA COUNTY DEPARTMENT OF CORRECTIONS**

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

WHEREAS, currently the City of Black Diamond contracts with the Yakima County Department of Corrections for Inmate Housing and wishes to continue that contract;

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 for Inmate Housing with Yakima County Department of Corrections 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 ____ DAY OF _____ 2017.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

AGREEMENT FOR INMATE HOUSING 2018

THIS INTERLOCAL AGREEMENT FOR INMATE HOUSING (hereinafter "Agreement") is made and entered into by and between **Yakima County** (hereinafter the "County") and **the City of Black Diamond** (hereinafter the "City").

WHEREAS, RCW Chapters 39.34 and RCW 70.48 authorize the City and the County to enter into a contract for inmate housing, and

WHEREAS, the City desires to transfer custody of certain of its inmates to the County to be housed in the County's corrections facilities during those inmates' confinement, and to compensate the County for housing such inmates, and

WHEREAS, the County desires to house inmates who would be otherwise in the City's custody on the terms agreed herein.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties hereto mutually agree as follows:

1. Purpose. The purpose and intent of this Agreement is to establish the terms under which the County will house City inmates.

2. Definitions.

Business day means Monday through Friday excluding Yakima County standard holidays.

Committing Court means the court that issued the order or sentence that established the City's custody of a City Inmate.

Detainer – A legal order authorizing or commanding another agency a right to take custody of a person.

City Inmate means a person subject to City custody who is transferred to County custody under this Agreement

3. General Provisions. The County shall accept City Inmates according to the terms of this Agreement and shall provide housing, care, and custody of those City Inmates in the same manner as it provides housing, care and custody to its own inmates.

The County shall manage, maintain, and operate its corrections facilities in compliance with all applicable federal, state, and local laws and regulations.

4. Right to Refuse or Return Inmate. To the greatest extent permitted by law, the County shall have the right to refuse to accept a City Inmate or to return a City Inmate to the City, if the Inmate has a current illness or injury that is listed in **Attachment A - Medical Acceptability**. The County shall provide notice to the City at least one business day prior to transport.

5. Inmate Transport. County Transported: The County shall transport Inmates to and from the County's corrections facilities except when weather or other conditions beyond the County's control prevent transport. **Inmate transport dates will be determined by the amount of inmates the City has housed with the County.**

The County will pick up and drop off Inmates at a mutually agreed upon destination. In the event the City wishes the County to pick up and/or drop off a City Inmate at another detention or correction facility, the City shall notify the County of the location of the Inmate for pick up and/or drop off.

The City shall provide a written inmate transport list to the County the business day prior to transport. At the time of scheduling transport if possible, but no later than transport pickup, the City shall provide to the County the warrant or court order detaining or committing the Inmate, as well as any order that specifies the Inmate's next court date or sentence to confinement.

The City shall provide a complete copy of each Inmate's records in its possession to the County prior to transferring custody of the Inmate to the County. The County will not assume custody of any inmate without a warrant or court order that commits the Inmate to confinement.

City Transported: The City will provide the County a written transport list to the County the business day prior to delivery. At the time of delivery, the City shall provide the County the warrant or court order detaining or committing the inmate as well as any order that specifies the Inmate's next court date or sentence to confinement.

The City shall provide a complete copy of each Inmate's records in its possession to the County prior to transferring custody of the Inmate to the County. The County will not assume custody of any inmate without a warrant or court order that commits the Inmate to confinement.

6. Inmate Records. The City shall provide all medical records in its possession to the County's transport officers prior to the Inmate's departure from the City's detention or designated detention facility. In the event the Inmate is transported by the City, the City shall provide all medical records in its possession to the County's booking officer. In the event additional information is requested by the County regarding a particular Inmate, the County and City will mutually cooperate to provide the additional information needed.

7. Inmate Property. The County shall accept and transport Inmate property in accordance with **Attachment B – Property**, and shall be responsible only for inmate property actually delivered into County possession. The County shall hold and handle each Inmate's personal property in the same manner it holds and handles property of other County inmates. In the event a City Inmate is being transported from a City designated detention or correction facility, it will be the responsibility of the City to dispose of the Inmate's property not delivered and accepted into County possession. When returning Inmates to the City, the County shall transport Inmate property according to the provisions of Attachment B – Property, and it shall be the responsibility of the County to dispose of any of the Inmate's property not transported with the Inmate.

8. Booking. Inmates shall be booked pursuant to the County's booking policies and procedures. Inmates transported by the City that are not acceptable at booking, will be the responsibility of the City to transport back to City.

Pursuant to RCW 70.48.130, and as part of the booking procedure, the Department of Corrections shall obtain general information concerning the Inmate's ability to pay for medical care, including insurance or other medical benefits or resources to which a City Inmate is entitled. The information is to be used for third party billing.

The County and City will attempt to develop a process at City detention facilities for pre-booking Inmates who are being transferred to the custody of the County.

9. Classification. Inmates shall be classified pursuant to the County's classification policies and procedures, and within the sole discretion and judgment of the County. The City shall provide information identified in **Attachment C – Classification**, of this Agreement.

10. Housing. Inmates shall be assigned to housing pursuant to the County's policies and procedures, and within the sole discretion and judgment of the County. Provided however, that generally, if a City Inmate's classification qualifies him/her to be housed in the Yakima County Corrections Center, and there is a bed available at the Yakima County Corrections Center, the Inmate shall be housed in the Yakima County Corrections Center. Exceptions to this general provision include circumstances such as: 1) No women are housed at the Yakima County Corrections Center; 2) Inmates assigned to certain work crews must be housed in the Main Jail or Annex; 3) Certain programs are available only to Inmates housed in the Main Jail or Annex; 4) Inmates who will be housed for less than one week will usually be housed in the Main Jail or Annex.

11. Inmate Work Programs. The County may assign Inmates to work programs such as inside and outside work crews, kitchen and facility duties, and other appropriate duties.

12. Health Care. The County shall provide in-facility medical care commonly associated with county corrections operations as guided by American Correctional Association or National Commission on Correctional Health Care standards.

Inmates shall be responsible for co-payment for health services according to County policy. The City shall not be responsible to the County for Inmate co-payments. No Inmate shall be denied necessary health care because of an inability to pay for health services.

The County shall notify the City's designee(s) via e-mail or fax if a City Inmate requires medical or dental treatment at an outside medical or health care facility. The City shall be responsible to promptly notify the County of any changes in its designee(s).

The City shall pay for all medical, mental health, dental or any other medical services that are required to care for the City's Inmates outside YCDOC facilities. Except, the County shall bear the expense of any such medical care necessitated by improper conduct of the County, or of its officers or agents.

The County shall notify the City as soon as reasonably possible before the Inmate receives medical and/or dental treatment outside of YCDOC facilities. The City acknowledges that such notice may not be reasonably possible prior to emergency care. Lack of prior notice shall not excuse the City from financial responsibility for related medical expenses, and shall not be a basis for imposing financial responsibility for related medical expenses on the County.

Outside medical expenses for Inmates housed for more than one jurisdiction shall be divided equally among those jurisdictions.

13. Inmate Discipline. The County shall discipline Inmates according to the same policies and procedures under which other County inmates are disciplined. However, nothing contained herein shall be construed to authorize the imposition of a type of discipline that would not be imposed on a comparable County inmate, up to and including the removal of earned early release credits as approved by the City.

14. Removal from County Facilities. Except for work programs or health care, and during emergencies, Inmates shall not be removed from County facilities without written authorization from the City or by the order of any court having jurisdiction. Other jurisdictions

may "borrow" a City Inmate only according to the provisions of **Attachment D – Borrowing**. In the event of the Inmate's emergency removal, the County shall notify the City by email or fax as soon as reasonably possible. No early release or alternative to incarceration, including furloughs, home detention, or work release shall be granted to any Inmate without written authorization by the committing court.

15. Visitation. The County shall provide scheduled visitation for attorneys, spouses, family and friends of Inmates. Such visitation may be accomplished as provided in Section 24 of this Agreement.

16. Inmate-Attorney Communication. Confidential telephones or visitation rooms shall be available to inmates to communicate with their attorneys.

17. Inmate Accounts. The County shall establish and maintain an account for each Inmate. The County shall ensure family members and others have a reasonable process to add funds to a City Inmate's account,

Upon returning custody of a City Inmate to the City, the County shall transfer the balance of that Inmate's account that is not subject to charges, to the Inmate or to the City in the form of a check or a debit card in the name of the Inmate.

In the event the County contracts with a company/business that furnishes technology for wireless inmate account crediting (such as Keefee or JPAY) the City may allow the County (or County's contracted representative) to install the equipment necessary for use of the system. The City shall not be financially responsible for any aspect of the system, including but not limited to installation or maintenance costs. The City shall not receive any compensation or profits for such a system.

18. Detainers. Inmates in a "Detainer" status shall be handled according to **Attachment E – Detainers**.

19. Releases. The City shall be responsible for computing and tracking all sentence time calculations, good time, court dates and release dates. Inmates will be released in accordance with **Attachment F – Inmate Release**.

The County shall not transfer custody of a City Inmate housed pursuant to this Agreement to any party other than the City, except as provided in this Agreement or as directed by the City.

20. Escape. If a City Inmate escapes County custody, the County shall notify the City as soon as reasonably possible. The County shall use all reasonable efforts to pursue and regain custody of escaped City Inmates, and shall assume all costs connected with the recapture of the City Inmate.

21. Death. If a City Inmate dies in County custody, the County shall notify the City as soon as reasonably possible. The Yakima County Coroner shall assume custody of the City Inmate's body. Unless another agency becomes responsible for investigation, YCDOC shall investigate and shall provide the City with a report of its investigation. The City may participate in the investigation. If another agency becomes responsible for investigation, YCDOC shall liaison or otherwise facilitate the City's communication with and receipt of reports from the other agency.

The City shall provide the County with written instructions regarding the disposition of the City Inmate's body. The City shall pay for all reasonable expenses for the preparation and shipment of the body. The City may request in writing that the County arrange for burial and all matters related or incidental thereto and the City shall be responsible for all costs associate with this

request. Except, the County shall bear such expenses necessitated by improper conduct of County, or its officers or agents.

22. Reporting Requirements. Ordinarily on business days, the County will deliver the following reports to the JAG, which will disseminate them to the City:

Here Now Report - a report detailing City inmates in YCDOC custody.

Housing Report – a report detailing which city inmates are housed at the Yakima County Corrections Center.

Custody Report – a report of total inmate populations confined at all YCDOC facilities. It includes current and historical safety and population data.

Special Housing Report – Identifies city inmates who are in special housing assignments.

23. City's Right of Inspection. The City shall have the right, upon reasonable advance notice, to inspect County correction facilities where City Inmates are housed at reasonable times. During such inspections, the City may interview its Inmates and review its Inmates' records. The City shall have no right to interview inmates housed for other jurisdictions or to review their medical records, unless it is properly authorized to do so by the inmate or the other jurisdiction.

24. Technology. The County and City may each permit the other continuous access to its computer database regarding all City Inmates housed by the County. This continuous access feature may be accomplished through a computer link between a computer(s) designated by the City and appropriate computer(s) of the County.

By separate mutual agreement, the County and City may provide video conference capabilities for personal visiting, professional visiting, pre-trial conferences, arraignments and other court and conferencing needs.

Bed Rate. In consideration of Yakima County's commitment to house City Inmates, the City shall pay the County based on the Monthly Average Daily Population (MADP) sliding scale:

<i>Monthly Average Daily Population (MADP)</i>	<i>Daily Rate Per Inmate</i>
151 - above	\$53.85
126-150	\$54.85
101-125	\$55.85
76-100	\$56.85
51-75	\$57.85
26-50	\$58.85
0-25	\$59.85

The Bed Rate includes all in-facility medical, dental (if available), and mental health services. In the event an inmate requires out of facility medical, dental or mental health services, the City shall be responsible for the cost of the services.

The County shall not charge a booking fee in connection with housing the City's Inmates.

The City may purchase additional beds, as available, at the then- existing bed rate; however, the County shall have the right to refuse to accept custody of or house inmates in excess of the City's minimum bed commitment.

The Daily Fee for inmates housed for more than one jurisdiction shall be divided equally among those jurisdictions.

This daily rate is established for 2018. Yakima County reserves the right to increase the daily rate with the understanding that they will provide the City of Black Diamond ninety (90) days written notification prior to said increase.

25. Billing and Payment. The County shall provide the City with monthly statements itemizing the name of each City Inmate, the number of days of housing, including the date and time booked into the County and date and time released from the County and itemization of any additional charges including a description of the service provided, date provided and reason for service.

The County shall provide said statement for each month on or about the 10th day of the following month. Payment shall be due to the County within (30) days from the billing date. The County may bill the City electronically. Payments not received by the 30th day shall bear interest at the rate of 1% per month until payment is received.

The Daily Fee for City Inmates housed for more than one jurisdiction shall be divided equally among those jurisdictions.

26. Duration of Agreement. This agreement will renew annually for up to five (5) years (December 31, 2022) unless there is written notification from one party to the other that they wish to terminate the contract at the end of the current calendar year. Such notification will be sent to the receiving party no later than October 1st of the current year.

27. Independent Contractor. In providing services under this Agreement, the County is an independent contractor and neither it nor its officers, nor its agents nor its employees are employees of the City for any purpose, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the City under any applicable law, rule or regulation. Nothing in this Agreement is intended to create an interest in or give a benefit to third persons not signing as a party to this Agreement.

28. Hold Harmless, Defense, and Indemnification. The County shall hold harmless, defend, and indemnify the City, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, injury, or death of any City Inmate, or loss or damage to City Inmate property while in County custody) that result from or arise out of the acts or omissions of County, its elected officials, officers, employees, and agents in connection with or

incidental to the performance or non-performance of the County's services, duties, and obligations under this Agreement.

The City shall hold harmless, defend, and indemnify the County, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, injury, or death of any City Inmate, or loss or damage to City Inmate property while in County custody) that result from or arise out of the acts or omissions of the City, its elected officials, officers, employees, and agents in connection with or incidental to the performance or non-performance of the City's services, duties, and obligations under this Agreement.

In the event the acts or omissions of the officials, officers, agents, and/or employees of both the City and the County in connection with or incidental to the performance or non-performance of the City's and or County's services, duties, and obligations under this Agreement are the subject of any liability claims by a third party, the City and County shall each be liable for its proportionate share of fault in any resulting suits, actions, claims, liability, damages, judgments, costs and expenses and for their own attorney's fees.

Nothing contained in this Section or this Agreement shall be construed to create a right in any third party to indemnification or defense.

The County and City hereby waive, as to each other only, their immunity from suit under industrial insurance, Title 51 RCW. This waiver of immunity was mutually negotiated by the parties hereto.

The provisions of this section shall survive any termination or expiration of this Agreement.

29. Insurance. The County and City shall provide each other with evidence of insurance coverage, in the form of a certificate or other competent evidence from an insurance provider, insurance pool, or of self-insurance sufficient to satisfy the obligations set forth in this Agreement.

The County and City shall each maintain throughout the term of this Agreement coverage in minimum liability limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate for its liability exposures, including comprehensive general liability, errors and omissions, auto liability and police professional liability. The insurance policy shall provide coverage on an occurrence basis.

30. Termination.

A. Mutual Agreement: This Agreement may be terminated by mutual written consent between the County and City with ninety (90) days written notice to the other party and to the State Office of Financial Management as required by RCW 70.48.090 stating the grounds for said termination and specifying plans for accommodating the affected City Inmates.

B. Imperiling Conditions: The City shall have the right to terminate this Agreement where: 1) conditions and/or circumstances at Yakima's facilities present an imminent risk of serious injury or death to the City's Inmates [Imperiling Conditions]; 2) the City has sent County written notice by certified mail, return receipt requested describing with reasonable specificity the Imperiling Conditions; and 3) the County has failed to cure the Imperiling Conditions within a reasonable period of time, which, unless the parties agree in writing to a longer period, shall be no more than 30 days after the County receives the City's notice. Termination under this

provision shall be effective if and when: 1) after at least 30 days, the County has not cured the Imperiling Condition(s); and 2) the City has removed its Inmates; and 3) the City has given the County formal written notice of final termination under this provision. After Termination under this provision the City shall have no further financial obligations under this Agreement.

C. **Material Breach:** Either party shall have the right to terminate this Agreement if: 1) the other party is in material breach of any term of this Agreement; 2) the terminating party has sent the breaching party written notice of its intent to terminate this Agreement under this section by certified mail, return receipt requested describing with reasonable specificity the basis for the termination; and 3) the breaching party has failed to cure the breach within ninety (90) days, unless the parties agree in writing to a longer cure period. Termination shall be effective upon and the City shall have no further financial obligations under this Agreement from the date of removal of its Inmates from the Yakima Facility or County's receipt of final notice that City is terminating the Agreement after the expiration of the cure period, whichever occurs last.

31. Real or Personal Property. It is not anticipated that any real or personal property will be acquired or purchased by the parties solely because of this Agreement.

32. Equal Opportunity. Neither party shall discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, political affiliation or belief or the presence of any sensory, mental or physical handicap in violation of any applicable federal law, Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 USC 12110 et seq.). In the event of the violation of this provision, the other party may terminate this Agreement immediately.

33. Assignment. This Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by the County to any other person or entity without the prior written consent of the City. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of County stated herein.

34. Non-Waiver. The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

35. Severability. If any portion of this Agreement is changed per mutual Agreement or any portion is held invalid, the remainder of the Agreement shall remain in full force and effect.

36. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any actions, suit, or judicial or administrative proceeding for the enforcement of this Agreement shall be brought and tried in the Federal or Superior Court for the State of Washington in King County

37. Approval and Filing. Each party shall approve this Agreement by resolution, ordinance or otherwise pursuant to the laws of the governing body of each party. The attested signatures of the City, Manager or Mayor and the Yakima County Commissioners below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed with the Yakima County Auditor's Office pursuant to RCW 39.34.040.

38. General Provisions. Unless otherwise agreed in writing executed by both parties, on and after January 1, 2018, and so long as this Agreement remains in effect, this document constitutes the entire Agreement between the City and the County under which the County houses City Inmates, and no other oral or written agreements between the parties shall affect this Agreement.

No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

The County shall not delegate its duties pertaining to housing City Inmates without the written consent of the City, which consent shall not be withheld unreasonably.

Any provision of this Agreement that is declared invalid or illegal shall in no way affect or invalidate any other provision.

In the event the County or City defaults on the performance of any terms of this Agreement and files a lawsuit, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses.

This Agreement may be executed in any number of counterparts.

39. Notices. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO CITY: Jamey Kiblinger, Police Chief
Black Diamond Police Department
25510 Lawson Street
P.O. Box 309
Black Diamond, WA 98010

TO COUNTY: Ed Campbell, Director
Yakima County Department of Corrections
111 North Front Street
Yakima, WA 98901

Alternatively, to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand - delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

	CITY OF BLACK DIAMOND, WASHINGTON
	By: _____ City Mayor
	Date: _____
	Attest: By: _____ City Clerk

	<p>Approved as to form:</p> <p>By: _____</p> <p>City Attorney</p>
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ATTACHMENT A
MEDICAL ACCEPTABILITY

The County shall determine the medical and mental acceptability of inmates for transport using the following excluding criteria:

1. Blood or fluid present at an open wound site or bleeding from an open wound.
2. Signs of untreated broken bones or dislocated joints.
3. Any injury or illness requiring immediate or emergency medical treatment.
4. Unconsciousness.
5. Inmates unable to stand and walk under their own power.
6. Wheel chair bound individuals.
7. Signs of alcohol toxicity and signs of current or recent use of any intoxicants.
8. Signs of alcohol and/or drug withdrawal.
9. Bed bound individuals.
10. Individuals with attached IV or requiring IV medications.
11. Individuals requiring the use of oxygen tanks.
12. AMA (Against Medical Advice) from the hospital.
13. Individuals having had major invasive surgery within the last 72 hours. Non-invasive surgery such as oral surgery, laser-eye surgery and minor surgery may be evaluated on a case by case basis.
14. Post-operative persons who have follow up appointments within the next four weeks.
15. Wounds with drainage tubes attached.
16. Persons with permanent catheters.
17. Open and/or oozing bedsores.
18. Individuals requiring nebulizers who cannot obtain one.
19. Persons with Alzheimer's, dementia or other psychological conditions to the point where the inmate cannot perform activities of daily living ("ADL's") or who do not have the capacity to function safely within a correctional environment.
20. Persons who are diagnosed as developmentally delayed and who do not have the capacity to function safely within a correctional environment or who cannot perform ADL's.
21. Female inmates more than 5 months pregnant. Or any female inmate considered a high-risk pregnancy.
22. Persons undergoing chemotherapy and/or radiation treatment.
23. Persons undergoing dialysis.

24. Persons with the following untreated medical conditions:
 - a) Heart disease
 - b) Seizures disorders
 - c) Insulin dependent diabetes
 - d) Cancer
 - e) Asthma
 - f) Psychosis
 - g) HIV Positive or AIDS
25. Persons who are HIV positive or have AIDS and are taking anti-viral medications.
26. Persons taking Methadone, or Suboxone, a substitute for Methadone.
27. Persons with suicidal ideations or gestures within the past 72 hours.
28. Person, if prescribed, have not taken psychotropic medications for at least 72 hours.
29. Persons who have attempted suicide within the last 30 days.
30. Persons who have attempted suicide by overdose or ligature strangulation during current incarceration.
31. Persons displaying current psychotic episode.
32. Persons requiring CPAP machines as prescribed must be transported with the machine.

ATTACHMENT B

PROPERTY

County transport personnel will only accept Inmate property as follows:

1. The property shall be sealed in a single property bag no larger than a common paper grocery bag.
2. Money, valuables, and medications shall be placed in a clear envelope and sealed within the Inmate's property bag.
3. Checks and documents (court, warrants, etc) shall be attached to the outside of the property bag.
4. The transporting officer shall account for the property bag and funds being transported. Yakima County Department of Corrections transport personnel will not accept or transport the following:
 - a) Backpacks, suitcases, etc.
 - b) Unpackaged food products or food products in packaging that has been opened.
 - c) Any type of weapon (includes pocketknives).
 - d) Liquids.
 - e) Any items that will not fit into the property bag.
 - f) Material deemed to be contraband.

Yakima County will limit property returned with the Inmate to the City according to these criteria.

ATTACHMENT C
CLASSIFICATION

The City shall supply the County with the following Classification related information, if it known to or in possession of the City:

1. If the City Inmate has been classified to a special housing unit and/or if the City Inmate has been classified as protective custody.
2. If the City Inmate is a violent offender or has displayed violent behavior during present or past incarcerations.
3. If the City Inmate is an escape risk.

ATTACHMENT D

BORROWING

One contracting city may "borrow" another contracting city's inmate as follows:

1. If a City requests the transport of another contracting City's Inmate from the County the requesting City must notify each agency with rights to custody of the Inmate, and if each agency with rights to custody of the Inmate notifies the County in writing (e-mail) of its approval, the County shall provide the requested transport. The County will complete a custody transfer form that lists all outstanding detainers. The custody transfer paperwork will accompany the inmate.
2. Once custody of the City Inmate has been transferred to another agency, it is the responsibility of the requesting City to determine whether the City Inmate shall be returned to the custody of the County, and if so, the requesting City shall make all necessary and proper arrangements with the County and any agency with rights to custody of the Inmate, for the Inmate's return according to the terms of this agreement.
3. The County will not track the City Inmate once he or she has left the County's facility.
4. If the Inmate is returned to the custody of the County, the requesting City shall provide the County with sentencing/charge information. The City shall supply all pre-sentence, and post-sentence paperwork from agreeing agencies that authorized the borrowing of the Inmate. This will aid Yakima County in determining split billing and release dates.
5. If the agency requesting to borrow a City Inmate is not in the "Contracting Agency," the requesting agency will be responsible to make all transport arrangements including all legal paperwork for the transport with the City of jurisdiction.
6. The County will transport the City Inmate only to a King County city that also contracts with the County for Inmate housing.
7. Inmates transported by the City, cannot be borrowed out of YCDOC.

ATTACHMENT E

This attachment only applies to Inmates transported by the YCDOC.

WARRANTS/OTHER COURT ORDERS/DETAINERS

1. The following shall apply to City Inmates who are subject to warrants from other jurisdictions or to other court orders for confinement or detainers. When receiving a City Inmate, the Transport Officers shall review all paperwork provided by the City for all grounds to hold the Inmate and ensure that this information is entered into the County's JMS and is routed to the Out of County Transport Section Office Specialist.
2. Prior to releasing a City Inmate, the County shall check the NCIC and WACIC systems to determine if the Inmate is subject to any valid warrants or other detainers.
 - a) If the Inmate is subject to a warrant that is limited to King County, YCDOC will, upon receiving written permission (e mail) from the City, transport the Inmate to the custodial agency for the jurisdiction that issued the warrant. However, Yakima County will not assume responsibility to serve any such warrants.
 - b) If the City Inmate is subject to a warrant from a western Washington jurisdiction outside King County, YCDOC will release the Inmate at the location determined by written (e mail) agreement of the YCDOC and the City under Section 5 of this Agreement.
 - c) If the City Inmate is subject to a warrant from an eastern Washington jurisdiction, YCDOC will send the Inmate to the custodial agency for that jurisdiction on the Mini-Chain.
 - d) If, upon return from YCDOC to the City, the Inmate is subject to a warrant that provides for statewide extradition, YCDOC will either transport the Inmate to the detention/correction facility in King County designated by the agency/jurisdiction that issued the warrant if it is in King County, or will send the Inmate to the agency/jurisdiction that issued the warrant on the Mini-Chain.
3. City Inmates who have or are subject to Immigration and Custom Enforcement (ICE) detainers shall be returned to the City, unless the County and City agree in writing (email) to some other course of action.

ATTACHMENT F

INMATE RELEASE

County transport personnel will release City Inmates as follows:

1. Inside a staffed correction or detention facility (jail).
2. Inside a staffed police agency (sally port or other secured area).
3. Outside of a Law Enforcement Agency when agency personnel, telephone access, and weather protection (lobby areas) are available to the released Inmate.
4. The County does not transport on Mondays.
5. City Inmates for whom bail is posted, or who otherwise have a right to be released may, by signed written waiver, choose to remain in custody and return to City by the regularly scheduled transport, or to be released to a family member or friend, or to the streets of Yakima.
6. Inmates transported by City must be picked up at least 12-(twelve) hours prior to the inmate's scheduled release date and time. If the inmate is not picked up before the scheduled release time, the Inmate will be automatically scheduled to be transported, at the City's cost to include the addition of transport fees for all days served, on the next available transport to the City.

2018 Inmate Housing Agreement – City of Black Diamond

DONE this _____ day of _____ 2017

BOARD OF YAKIMA COUNTY COMMISSIONERS

J. Rand Elliott, Chairman

Ron Anderson, Commissioner

Attest: Tiera L. Girard
Clerk of the Board

Michael D. Leita, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

Approved as to form:

Deputy Prosecuting Attorney

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: November 2, 2017 AB17-060A	
Resolution authorizing the Mayor to execute a Second Addendum to the Professional Services Agreement with Kara Murphy Richards regarding prosecuting attorney services	Mayor Carol Benson	X
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$1,400 monthly increase to prosecution services	Public Works – Seth Boettcher	
Fund Source: --General Fund	Court – Stephanie Metcalf	
Timeline: January 2018		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Second Addendum; Original Contract; First Addendum		
SUMMARY STATEMENT:		
Councilmembers Deady and Edelman have placed this item on the agenda.		
<p>Since January 2012, prosecution services for the City in Black Diamond Municipal Court have been provided by Kara Murphy Richards. The City has been very pleased with the services provided by Ms. Richards and wishes to continue with her services.</p> <p>In 2012 court was held for two full days and was then cut back to two half days in 2013. However, now with the increase in cases it has become impossible to finish the court calendar in a half day and the Judge is proposing two full day court calendars in 2018.</p> <p>With that in mind, during discussions regarding budget development the Prosecutor proposed a rate increase from \$2,000 to \$3,400 monthly in 2018. The City finds the proposed increase to be fair and reasonable and recommends Council adoption.</p> <p>FISCAL NOTE (Finance Department): The 2018 budget includes the additional increase which will be covered by anticipated revenue.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt a resolution authorizing the Mayor to execute a second addendum to the Professional Services Contract with Kara Murphy Richards regarding Prosecuting Attorney services.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
October 19, 2017	Postponed to Nov 2 meeting.	
November 2, 2017		

RESOLUTION NO. 17-_____

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

WHEREAS, as a part of the development for the 2018 Budget, discussions with the City Prosecutor identified potential increases in monthly compensation; and

WHEREAS, the City is pleased with the services provided by Kara Murphy Richards and desires to continue with her services; and

WHEREAS, the City finds the proposed addendum to the contract to be fair and reasonable;

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 Second Addendum to the Professional Services 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 __ DAY OF ____ 2017.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**SECOND 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 ("Second Addendum"), for reference purposes only, is dated the _____ day of _____ 2017, 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 City and Consultant entered into a First Addendum to the Agreement on December 6, 2012.
- 2.3 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.
- 2.4 The parties have now determined that such an amendment is appropriate, and thus the intent of the Second Addendum is to increase the standard monthly compensation rate.

3. Modification to Agreement Terms and Conditions.

- 3.1 The Agreement terms are hereby incorporated by reference. The Second Addendum terms are hereby incorporated into the Agreement by reference. The Second 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 Second Addendum, the provisions of the Second Addendum shall control.

4. Modification to Existing Agreement, Section 6 Compensation.

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

A. Base rate. Beginning on January 1, 2018 the City shall pay the Prosecutor a base rate of \$3,400 per month for performing the Scope of Work as set forth in Section 4A, Scope of Work, numbers 1 through 13. This increased rate of compensation set forth in this Addendum assumes an on-going level of Black Diamond Municipal Court hearings of two full days per month. The Contractor shall provide all series to effectively prosecute violations of 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 new 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.

5. **Other Terms Unchanged.**

5.1 All other terms of the Agreement remain unchanged.

DATED: This _____ day of _____, 2017.

CITY OF BLACK DIAMOND

CONSULTANT

By: _____

By: _____

Carol Benson

Printed Name: _____

Its: Mayor

Its: _____

Date: _____

Date: _____

Attest:

By: _____

Brenda L. Martinez

City Clerk

RESOLUTION NO. 11-773

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE AN
AGREEMENT WITH KARA MURPHY RICHARDS FOR
PROSECUTING ATTORNEY SERVICES

WHEREAS, the City of Black finds it necessary to hire a prosecuting attorney to provide misdemeanor prosecutorial services, contested infraction hearing representation for police and forfeiture services; and

WHEREAS, the City advertised for qualified firms and individuals to fill the position of prosecutor and a selection panel including the Mayor, City Attorney, Acting Commander and Assistant City Administrator/City Clerk reviewed the proposals and interviewed two applicants; and


WHEREAS, the panel recommends Kara Murphy Richards as qualified and willing to provide the necessary services;

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

Section 1. The Mayor is hereby authorized to execute an agreement, substantially in the form attached hereto as Exhibit A, for the purposes of obtaining prosecutorial services.

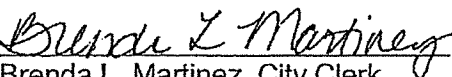
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF DECEMBER, 2011.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

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

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.

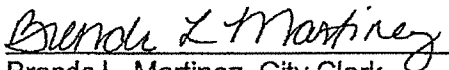
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 6TH DAY OF DECEMBER, 2012.

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 6 day of Dec, 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:



City



Consultant

- 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 6 day of Dec, 2012.

CITY OF BLACK DIAMOND

By: Rebecca Olness
Rebecca Olness

Its: Mayor

~~Atty~~ Dec
Date: ~~May~~ 7, 2012

CONSULTANT

By: Kara Murphy
Printed Name: Kara Murphy
Its: Prosecutor

NA
Date: ~~May~~ 2, 2012

Attest:

KO
City

KM
Consultant

By: Brenda L. Martinez
Brenda L. Martinez
City Clerk

RL
City

u
Consultant

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing a grant agreement with the Department of Ecology for the 2017-2019 Stormwater Capacity Grant	Agenda Date: November 2, 2017	
	AB17-061A	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$50,000 revenue		
Fund Source: Department of Ecology		
Timeline: Expires March 31, 2019		
	Public Works – Seth Boettcher	X
	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution 17-xxx; Grant Agreement		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have placed this item on the agenda.		
<p>The purpose of this grant is to provide financial assistance to the City in order to help the City meet the requirements under the City's stormwater permit from the Department of Ecology.</p>		
<p>This grant will expire March 31, 2019 and is retroactive to July 1, 2017. The grant funds are as follows:</p>		
<p>Task 1 – Up to \$2,000 for Project Administration/Management</p>		
<p>Task 2 - \$48,000 for implementation and management of the Stormwater Program as required by the City's stormwater discharge permit from the Department of Ecology. Activities that fall under Task 2 are activities that the City currently is responsible for in maintaining and operating the stormwater system and includes:</p>		
<ul style="list-style-type: none"> • Public education and outreach • Public involvement and participation • Illicit discharge detection and elimination (IDDE) activities • Activities to support programs to control runoff from new development, redevelopment, and construction sites • Pollution prevention, good housekeeping, and operation and maintenance program activities • Annual reporting activities • Establishing and refining stormwater utilities, including stable rate structures • Water quality monitoring 		

This is a similar grant to previous grants the City has received from the Department of Ecology.

FISCAL NOTE (Finance Department): \$25,000 of this \$50,000 is included in the 2018 preliminary budget. The remainder can be allocated to 2019.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to adoption a Resolution accepting capacity grant funds and authorizing the Mayor to execute a grant agreement with the Department of Ecology for the 2017-2019 Stormwater Capacity Grant.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
October 19, 2017	Postponed to Nov 2 meeting.	
November 2, 2017		

RESOLUTION NO. 17-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING ACCEPTANCE OF CAPACITY GRANT
FUNDS AND AUTHORIZING THE MAYOR TO EXECUTE A
GRANT AGREEMENT WITH THE DEPARTMENT OF
ECOLOGY FOR THE 2017-2019 STORMWATER CAPACITY
GRANT**

WHEREAS, the City of Black Diamond is required to meet National Pollutant Discharge Elimination System (NPDES) Phase II Permit requirements; and

WHEREAS, the Department of Ecology has made funds available to municipalities required to meet NPDES Phase II Permit requirements in the form of the 2017-2019 Stormwater Capacity Grant;

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

Section 1. The City Council hereby accepts the 2017-2019 Capacity Grant funds from the Washington State Department of Ecology in the amount of \$50,000 to assist the City with completing the City's requirements under its NPDES Phase II Permit;

Section 2. The Mayor is hereby authorized to execute a grant agreement with the Department of Ecology for the 2017-2019 Stormwater Capacity Grant in the amount of \$50,000 to meet Phase II NPDES requirements.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON,
AT A REGULAR MEETING THEREOF, THIS 2ND DAY OF NOVEMBER 2017.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



Agreement No. WQSWCAP-1719-BlaDia-00022

WATER QUALITY STORMWATER CAPACITY 1719 AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF BLACK DIAMOND

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and City of Black Diamond, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	2017-2019 Biennial Stormwater Capacity Grants
Total Cost:	\$50,000.00
Total Eligible Cost:	\$50,000.00
Ecology Share:	\$50,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2017
The Expiration Date of this Agreement is no later than:	03/31/2019
Project Type:	Capacity Grant

Project Short Description:

This project will assist Phase I and II Permittees in implementation or management of municipal stormwater programs.

Project Long Description:

N/A

Overall Goal:

This project will improve water quality in the State of Washington by reducing stormwater pollutants discharged to state water bodies.

RECIPIENT INFORMATION

Organization Name: City of Black Diamond

Federal Tax ID: 91-6016204

DUNS Number: 195690011

Mailing Address: PO Box 599
Black Diamond, WA 98010

Physical Address: PO Box 599
24301 Roberts Drive
Black Diamond, Washington 98010

Organization Email: shanis@ci.blackdiamond.wa.us

Organization Fax: (360) 886-2592

Contacts

Project Manager	Scott Hanis Capital Project/Program Manager PO Box 599 24301 Roberts Drive Black Diamond, Washington 98010 Email: shanis@ci.blackdiamond.wa.us Phone: (360) 886-5700
Billing Contact	Scott Hanis Capital Project/Program Manager PO Box 599 24301 Roberts Drive Black Diamond, Washington 98010 Email: shanis@ci.blackdiamond.wa.us Phone: (360) 886-5700
Authorized Signatory	Carol Benson Mayor P O Box 599 Black Diamond, Washington 98010 Email: cbenson@ci.blackdiamond.wa.us Phone: (360) 886-5700

Agreement No: WQSWCAP-1719-BlaDia-00022
Project Title: 2017-2019 Biennial Stormwater Capacity Grants
Recipient Name: City of Black Diamond

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Water Quality
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Water Quality
300 Desmond Drive SE
Lacey, WA 98503

Contacts

Project Manager	Kyle Graunke PO Box 47600 Olympia, Washington 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 407-6452
Financial Manager	Kyle Graunke PO Box 47600 Olympia, Washington 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 407-6452

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

City of Black Diamond

By: _____

By: _____

Heather R. Bartlett
Water Quality
Program Manager
Date

Carol Benson
Mayor
Date

Template Approved to Form by
Attorney General's Office

SCOPE OF WORK

Task Number: 1 Task Cost: \$2,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; an EAGL (Ecology Administration of Grants and Loans) recipient closeout report; and a two-page final outcome summary report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be made available to ECOLOGY upon request..

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to- date staff contact information in the EAGL RECIPIENT contact form. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant and loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, RECIPIENT closeout report, and two-page outcome summary report.
- * Properly maintained project documentation

Recipient Task Coordinator: Scott Hanis

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges, or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form)	
1.3	Two-page Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$48,000.00

Task Title: Permit Implementation

Task Description:

Conduct work related to implementation of municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit requirements. If the RECIPIENT is out of compliance with the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit, the RECIPIENT will ensure funds are used to attain compliance where applicable.

RECIPIENT may conduct work related to implementation of additional activities required by the municipal stormwater NPDES permits. The following is a list of elements RECIPIENT's project may include.

- 1) Public education and outreach activities, including stewardship activities.
- 2) Public involvement and participation activities.
- 3) Illicit discharge detection and elimination (IDDE) program activities, including:
 - a) Mapping or geographic information systems of municipal separate storm sewer systems (MS4s).
 - b) Staff training.
 - c) Activities to identify and remove illicit stormwater discharges.
 - d) Field screening procedures.
 - e) Complaint hotline database or tracking system improvements.
- 4) Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 - a) Development of an ordinance and associated technical manual or update of applicable codes.
 - b) Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance.
 - c) Training for plan review and/or inspection staff.
 - d) Participation in applicable watershed planning effort.
- 5) Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 - a) Inspecting and/or maintaining the MS4 infrastructure.
 - b) Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
- 6) Annual reporting activities.
- 7) Establishing and refining stormwater utilities, including stable rate structures.
- 8) Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan (QAPP) that the DEPARTMENT approves prior to awarding funding for monitoring.
Monitoring, including:
 - a) Development of applicable QAPPs.
 - b) Monitoring activities, in accordance with a DEPARTMENT- approved QAPP, to meet Phase I/II permit requirements.
- 9) Structural stormwater controls program activities (Phase I permit requirement)
- 10) Source control for existing development (Phase I permit requirement), including:
 - a) Inventory and inspection program.
 - b) Technical assistance and enforcement.
 - c) Staff training.

11) Equipment purchases that result directly in improved compliance with permit requirements. Allowed costs for equipment purchases must be specific to implementing a permit requirement (such as a vector truck) rather than general use (such as a general use pick-up truck). Qualified equipment purchases include but are not limited to:

- a) Illicit discharge testing equipment and materials.
- b) Vector truck or sweeper truck or MS4 maintenance activities.
- c) Electronic devices dedicated to mapping of MS4 facilities and attributes.
- d) Software dedicated to tracking permit implementation activities.

As a deliverable, documentation of all tasks completed is required. Documentation includes but is not limited to: maps, field reports, dates and number of inspections conducted, dates of trainings held and participant lists, number of illicit discharges investigated and removed, summaries of planning, stormwater utility or procedural updates, annual reports, copies of approved QAPPs, summaries of structural or source control activities, summaries of how equipment purchases have increased or improved permit compliance.

Task Goal Statement:

This task will improve water quality in the State of Washington by reducing the pollutants delivered by stormwater to lakes, streams, and the Puget Sound by implementing measures required by Phase I and II NPDES permits.

Task Expected Outcome:

RECIPIENTS will implement measures required by Phase I and II NPDES permits.

Recipient Task Coordinator: Scott Hanis

Permit Implementation

Deliverables

Number	Description	Due Date
2.1	Documentation of tasks completed	

BUDGET

Funding Distribution EG180094

NOTE: The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.

Funding Title: FY1719 Capacity Grants Funding Type: Grant
Funding Effective Date: 07/01/2017 Funding Expiration Date: 03/31/2019
Funding Source:

Title: Stormwater Capacity

Type: State

Funding Source %: 100%

Description:

Approved Indirect Costs Rate: Approved State Indirect Rate: 25%
Recipient Match %: 0%
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

FY1719 Capacity Grants	Task Total
Grant and Loan Administration	\$ 2,000.00
Permit Implementation	\$ 48,000.00

Total: \$ 50,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
FY1719 Capacity Grants	0.00 %	\$ 0.00	\$ 50,000.00	\$ 50,000.00
Total		\$ 0.00	\$ 50,000.00	\$ 50,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal

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remedies, including suspension and debarment.

8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff and contractors working at the project site.
 - Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
 - d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@watech.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for each project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required the RECIPIENT shall:

- Use ECOLOGY's QAPP Template provided by the ECOLOGY Program.

- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The data must be successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

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Recipient Name: City of Black Diamond

- c) **Presentation and Promotional Materials.** ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) **Tangible Property Rights.** ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) **Personal Property Furnished by ECOLOGY.** When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) **Acquisition Projects.** The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) **Conversions.** Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date

mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the recipient/contractor through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the recipient/contractor. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

Agreement No: WQSWCAP-1719-BlaDia-00022
Project Title: 2017-2019 Biennial Stormwater Capacity Grants
Recipient Name: City of Black Diamond

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 05/11/2017

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: November 2, 2017	AB17-062
Resolution approving yearly addendum to our agreement with Valley Communications for dispatch services.	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
Cost Impact (see also Fiscal Note): \$	Police – Chief Kiblinger	X
Fund Source: --	Public Works – Seth Boettcher	
Timeline:	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution; Addendum		
SUMMARY STATEMENT: Councilmember Deady and Edelman have placed this item on the agenda. This is our yearly addendum to our contract with Valley Communications for dispatch services. Price per call increases from \$40.79 to \$41.81. Example of budgeted costs broken down (2016 numbers used for call volume assumptions) 2016 CFS (calls for service) 3200 x \$41.81 = \$133,792 2016 Traffic stops 2052 x \$20.90 = \$42,886.80 2016 Mobile traffic 1020 x 0 = No charge FISCAL NOTE (Finance Department): The 2018 Budget includes the increase for the Valley Communications Dispatch Service.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt a resolution authorizing the Mayor to execute an addendum to the agreement for dispatch services for Valley Communications for 2018.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
November 2, 2017		

RESOLUTION NO. 17-XXXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM
TO THE AGREEMENT FOR DISPATCH SERVICE FOR
VALLEY COMMUNICATIONS FOR 2018**

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

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

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

Section 1. The Mayor is hereby authorized to execute an Addendum to the Emergency Dispatch Agreement for Police Service with Valley Communications for 2018 in the form as attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON,
AT A REGULAR MEETING THEREOF, THIS ____ DAY OF NOVEMBER 2017.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



A NATIONALLY ACCREDITED COMMUNICATIONS CENTER

**FEE SCHEDULE
to the
AGREEMENT
by and between
VALLEY COMMUNICATIONS CENTER
and
BLACK DIAMOND POLICE DEPARTMENT**

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

This schedule shall remain in effect from **January 1, 2018** thru **December 31, 2018**.

- A.1 The rate shall be **Forty One Dollars and Eighty One Cents (\$41.81)** for each dispatchable call.
- A.2 ACCESS user fees will be charged on a quarterly basis determined by user agency transaction count. Transactions for any given calendar year are used to determine fees for two years past the year when the transaction count was taken.

Signed this **17th** day of **October, 2017**.


LORA UELAND
EXECUTIVE DIRECTOR

MAYOR





MEMORANDUM

FROM: Mary Sue Robey, Administrative Services Manager
DATE: October 17, 2017
SUBJECT: **Contract Fee Schedule**

Please have the appropriate person sign the attached fee schedule to your contract with Valley Communications Center and return one copy to me for our records by November 13, 2017.

If you have questions regarding this document please contact me at 253.372.1520.



CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: November 2, 2017	AB17-063
Resolution confirming the Mayor's appointment of Krista White Swain as the Black Diamond Municipal Court Judge and authorizing her to execute a Judicial Services Agreement	Mayor Carol Benson	X
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$3,600 monthly	Public Works – Seth Boettcher	
Fund Source: --General Fund	Court – Stephanie Metcalf	
Timeline: January 1, 2018		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution; Judicial Services Agreement; RFQ Submittal; RCW 3.50.040; BDMC 2.36.030; RFQ;		
SUMMARY STATEMENT: Councilmember Deady and Edelman have placed this item on the agenda.		
<p>The appointment for the Black Diamond Municipal Court Judge expires on December 31, 2017. Staff was directed to prepare and publish/post an RFQ announcing the City was soliciting qualified individuals or firms to apply. The deadline to receive applications was September 21, 2017.</p>		
<p>The City received eight applications for this position. A selection committee consisting of Mayor Carol Benson, Chief Jamey Kiblinger, Court Administrator Stephanie Metcalf, and City City/HR Brenda L. Martinez conducted interviews and the selection committee unanimously recommended Krista White Swain for the position.</p>		
<p>In accordance with RCW 3.50.040 and BDMC 2.36.030 municipal court judges are appointed by the Mayor, subject to City Council confirmation, for four-year terms commencing on January 1 of the year.</p>		
<p>Mayor Benson is seeking confirmation from Council of her appointment of Krista White Swain to the position of Black Diamond Municipal Court Judge for a four-year term commencing January 1, 2018 and ending December 31, 2021.</p>		
<p>Mayor Benson is also seeking authorization to execute a four-year judicial services contract with Ms. Swain. The monthly flat rate of compensation is \$3,600 and is based on the court being in session for two regularly scheduled full day court appearance calendars per month and</p>		

to also provide office hours for two one-half days to perform administrative duties of the Court. The City finds this agreement to be fair and reasonable and recommends approval.

FISCAL NOTE (Finance Department): The 2018 Budget for the court includes the noted funds for the Court Judge.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to confirming the Mayor's appointment of Krista White Swain as the Black Diamond Municipal Court Judge and authorizing the Mayor to execute a Judicial Services Contract.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
November 2, 2017		

RESOLUTION NO. 17-XXXX

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

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

WHEREAS, the municipal court judge appointment expires on December 31, 2017; and

WHEREAS, staff was directed to advertise for this position and the City received eight applications; and

WHEREAS, a selection committee consisting of Mayor Carol Benson, Chief Jamey Kiblinger, Court Administrator Stephanie Metcalf, and City Clerk/HR Brenda L. Martinez conducted interviews and unanimously recommended Ms. Swain for this position; and

WHEREAS, the Mayor is seeking Council confirmation of her appointment of Krista White Swain as the City's Municipal Court Judge; and

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

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

Section 1. The City Council of the City of Black Diamond, Washington, does hereby confirm the Mayor's appointment of Krista White Swain as Municipal Court Judge through December 31, 2021, and authorizes the Mayor, on behalf of the City, to execute a Judicial Services Agreement substantially in the form attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS ____TH DAY OF NOVEMBER 2017.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

MUNICIPAL COURT JUDICIAL SERVICES AGREEMENT

This agreement (the "Agreement") is by and between the City of Black Diamond, a municipal corporation operating as a non-charter code city under the laws of the state of Washington (the "City"), and Krista White Swain ("Contractor"), and is dated the _____ day of _____, 2017.

RECITALS

- A. The City operates a Municipal Court pursuant to BDMC Chapter 2.36 and RCW Ch. 3.50.
- B. The Contractor meets the judicial qualifications set forth at BDMC 2.36.030(C).
- C. The Contractor is willing and able to serve as the City's Municipal Court Judge for the four year term ending December 31, 2021.
- D. The City and Contractor desire to enter into an agreement setting forth the relative rights, duties and obligation of the parties;

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

- 1. **Appointment** - Effective January 1, 2018, and subject to confirmation by the Black Diamond City Council, Contractor is appointed to be the judge of the Black Diamond Municipal Court. Said term shall commence on January 1, 2018 and terminate on December 31, 2021, unless sooner terminated as may be provided by law.
- 2. **Term** – The term of this agreement shall be from January 1, 2018 through December 31, 2021.
- 3. **Duties** – Contractor agrees to serve as the Municipal Court Judge for the City of Black Diamond with all the powers, duties, privileges and obligations which said office confers and in accordance with this Agreement and as required by the City's ordinances, the constitutions and laws of the state of Washington and the United States, and all other applicable laws and treaties. Contractor shall abide by the Rules of Judicial Conduct as promulgated by the Washington Supreme Court. Contractor shall at all times maintain her status as a licensed attorney in the state of Washington in the status of either active or judicial. The services to be provided will

include regularly scheduled court sessions and any administrative work and out-of-court work done by the Municipal Court Judge, and all time expended for judicial education. In addition to regularly scheduled sessions of the Black Diamond Municipal Court, the Judge shall conduct arraignments, probable cause hearings, drug forfeiture hearings, bail hearings, jury trials, or other court hearings as may be necessary, and shall otherwise be available, as needed, to provide the Municipal Court services in accordance with BDMC Chapter 2.36 and state statute. Contractor shall also use her best efforts to improve the City's Court by advancing the causes of justice, impartiality, fairness and efficiency in all of the Court's business.

4. **Compensation** – The parties acknowledge that compensation is based upon the assumption that the Contractor will attend two regularly scheduled full-day court appearance calendars per month, provide office hours for two one-half days to perform administrative duties of the Court, in addition to occasional phone calls with court staff and the police department. Based upon the foregoing, the City shall compensate Contractor at the flat base rate of \$3,600 per month for all her time, both judicial and administrative. In the event that it is necessary for the Contractor to schedule additional court calendars 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 of \$400 for each additional court calendar that is scheduled (\$400.00 per ½ day) up to a total of \$800 dollars per month as full compensation for all additional court calendars. The rate of compensation may be adjusted by the mutual agreement of the parties, in writing.
5. **Judges Pro Tem** – In the event the Contractor is unable to serve due to disability, illness and/or absence, an actual conflict, or an affidavit of prejudice, it shall be her responsibility to so notify the Court Administrator who shall make arrangements for the presence of a Judge pro tem. All Judges pro tem shall be qualified to hold the position of Judge of the Municipal Court, as provided herein. Judges pro tem shall be paid by the City. The City will be responsible for compensating the pro tempore judge; provided that, when a judge pro tempore serves when Contractor is unable to serve due to disability, illness and/or absence, the City shall deduct pro-tem costs dollar-per-dollar from the flat base rate of compensation per month paid to the judge.
6. **Status** – Contractor will be an independent contractor, and shall pay all of her own withholding taxes, social security taxes, and any other payroll taxes.
7. **Termination** – This agreement shall be in effect during the term specified in paragraph two unless terminated by mutual agreement or according to law. The City shall release Contractor from her obligations under this contract if Contractor

accepts a full-time judicial appointment, in which case Contractor will release the City from its obligations.

8. **General Rule 29** – The parties agree that the provisions of Washington State Rules of Court General Rule 29, which governs the election, term, vacancies, removal, selection, responsibilities and authorities of presiding judges in courts of limited jurisdiction, shall be applicable to all court operations and personnel.
9. **Qualification** – Contractor declares that she is, and shall at all times during the term of this Agreement be, qualified to serve as a Municipal Court Judge in that she is a citizen of the United States and of the State of Washington, resides in King County, and an attorney admitted to practice law before the courts of record of the State of Washington.
10. **Indemnity Agreement** – The City shall defend, indemnify and hold Contractor and/or pro tem judges that may serve in her absence, harmless from any and all claims arising out of the good faith performance of her duties and functions as the Black Diamond Municipal Court Judge.
11. **Mediation and Arbitration** – Should any dispute arise between the parties, the disputed matter shall be submitted to mediation using a mediator from JAMS (Seattle office), and following the mediator selection process and mediation rules followed by JAMS. The parties shall each pay their own costs associated with mediation and shall each pay one half of the JAMS and mediator's fees. If the mediation is unsuccessful, then the matter, at either party's request, shall be submitted to binding arbitration in accordance with the Uniform Arbitration Act, Chapter 7.04A RCW. The substantially prevailing party shall be entitled to recover their costs and attorney fees incurred in the arbitration, and the substantially non-prevailing party shall pay the cost of the arbitration, including the arbitrator's fee.

CONTRACTOR:

Krista White Swain

Date

CITY:

Carol Benson, Mayor

Date

LAW OFFICES OF KRISTA WHITE SWAIN

PO Box 1087, Enumclaw, Washington 98022

September 16, 2017

Brenda L. Martinez
City Clerk/HR Manager
City of Black Diamond
24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

Re: Judicial Position

Dear Ms. Martinez,

Enclosed please find my full application for consideration of the position of Municipal Court Judge for the City of Black Diamond, including the following:

1. Resume of Krista White Swain, WSBA #26592;
2. Professional References;
3. Release allowing Black Diamond access to WSBA discipline;
4. Governor's Uniform Judicial Evaluation Questionnaire;
5. Additional questions regarding significant matters I have handled; and
6. Letters providing ratings from KCBA, Q Law Bar Association, Latin Bar Association, Joint Asian Bar Association and the Loren Miller Bar Association.

Please consider choosing me for this position; I have several years of pro tem experience in both King County District Court and Issaquah Municipal Court, I live in the area, and consider Black Diamond to be part of my community.

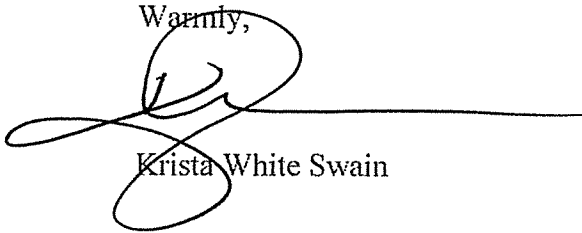
In the materials attached, you will see that the Governor's Application provides many details about what kind of attorney and judge I am. Working as prosecutor, defense attorney and judge, I know each role in the courtroom and how each position can work to benefit the community as a whole. I see the defendant as part of that community as well. No matter what position I hold, it is my goal to see the community improve by what happens in the courtroom. From the most simple traffic infraction, to a complicated domestic violence case, how a case is handled in the courtroom can make big differences in how the defendant emerges from the court. If it is a positive or thoughtful experience, it may shift the paradigm as to how that individual sees the criminal justice system. However, a negative experience can have rippling effects in multiple aspects. Most of the time, when someone comes before the court, something bad has happened, or something is very wrong in their life. A positive and compassionate experience in

the courtroom can help heal, but an experience wherein someone feels like a number or a problem to be "dealt" with can exacerbate the issues.

As a judicial officer, I strive to include compassion in my rulings, but also create strict boundaries in sentencing and probation for criminal cases. For criminal and civil cases, it is important that the individual have an opportunity to be heard. Sometimes the outcome itself is not nearly as important as just having their voice be heard by someone of authority.

I can deeply about my community, and I consider Black Diamond to be part of that community. It is my hope to serve Black Diamond as a judicial officer as it grows into a new and thriving city.

Warmly,

A handwritten signature in black ink, appearing to read 'Krista White Swain', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

KRISTA COLLEEN WHITE-SWAIN

19021 SE 400TH STREET, ENUMCLAW, WASHINGTON 98022
OFFICE 253-927-3913; FAX 253-927-3889
krista@kristawhiteswain.com

Education: University of Washington, 1992, B.A. English Literature
California Western School of Law, 1996, Juris Doctorate

Member: Washington State Bar Association #26592 since December, 1996

Legal Experience:

Buckley Prosecuting Attorney, September 2016 to Present

Enumclaw Prosecuting Attorney, May, 2015 to Present

Issaquah Municipal Court, March, 2015 to Present - Pro Tem Judge

King County District Court, December 2012 to Present - Pro Tem Judge

City of Ruston, February, 2008 to Present - Prosecutor

City of Milton, April, 2007 to Present -Prosecutor

City of Pacific, December 1997 to Present - Public Defender

City of Puyallup, June 2008 to August 2016 - Prosecutor

City of Des Moines, January, 2002 to December, 2006 - Prosecutor

King County Office of Public Defense, December, 1997 to April, 2008
Conflict Public Defender in District and Superior Courts

Law Offices of Susan Amini, January, 1997 to December, 1997
Public Defender for Bellevue Municipal Court

San Diego Alternate Public Defender, 1995 - 1996
Intern – Juvenile public defense

Private Practice Experience:

I have had my own practice since December, 1997. During this time, the majority of my practice has been in the area of public law, as referenced above. In furthering my career, I have a strong interest toward improving practices and policies in the courts that serve the community. My philosophy has always been to promote compassion and justice in all interpersonal connections; whether it be in the practice of law, or any area of life that relates to others.

PROFESSIONAL REFERENCES

Kara Murphy
25510 Lawson Street
Black Diamond, Washington 98010-9721
206-947-3852

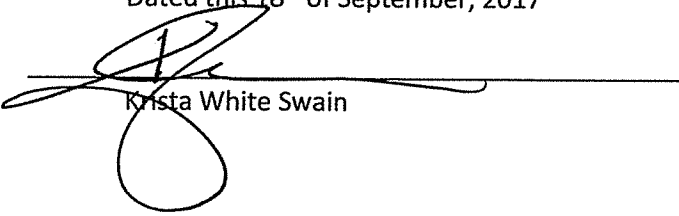
Steven Crawford
2010 Park Street
Enumclaw, Washington 98022
360-825-1289

Susan Mahoney
King County District Court
Suite 1A
401 4th Avenue North
Kent, Washington 98032-4429
206-477-2040

RELEASE OF INFORMATION

I, Krista White Swain, WSBA #26592, do hereby authorize the City of Black Diamond and its representatives to access any and all disciplinary matters held by the Washington State Bar Association involving my legal representation of any individual or entity. This release shall be effective for 90 days from the date below.

Dated this 18th of September, 2017



Krista White Swain

THE WASHINGTON STATE GOVERNOR'S OFFICE UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE

I. Judicial Position	
Position Sought BLACK DIAMOND MUNICIPAL COURT JUDGE	Court, Division, or District

II. Personal Information	
Name (Last, First, and Middle Initial) WHITE-SWAIN, KRISTA C.	Email (Personal and Work) KRISTASWAIN@GMAIL.COM
Home Mailing Address 19021 SE 400TH STREET	City, State, ZIP ENUMCLAW, WA 98022
Work Mailing Address PO BOX 1087	City, State, ZIP ENUMCLAW, WA 98022
Personal Phone (Include area code) 206-304-0455	Work Phone (Include area code) 253-927-3913
Mobile Phone (Include area code) 206-304-0455	Social Security Number ¹ [REDACTED]
WSBA Bar Number and Year of Admission 26592 1996	Date of Birth (mm/dd/yyyy) [REDACTED]

III. Prior Evaluation and Application History
Please list all prior judicial positions sought. Please list evaluations you received as part of that process, including dates. NONE

IV. Education		
Please list all law school, graduate, and undergraduate colleges and universities attended.		
College/University UNIVERSITY OF WASHINGTON	Month and Year Attended (From and To) 09/1987 TO 06/1993	Degree Awarded BA - ENGLISH LITERATURE
College/University CAL WESTERN LAW	Month and Year Attended (From and To) 09/1993 TO 05/1996	Degree Awarded JD
College/University	Month and Year Attended (From and To)	Degree Awarded
College/University	Month and Year Attended (From and To)	Degree Awarded
If you did not complete your degree at any of these schools, please explain why.		

V. Professional History

1. Present or Last Employer SELF - LAW OFFICES OF KRISTA WHITE SWAIN	Employer's Address PO BOX 1087 ENUMCLAW, WA 98022
Employer's Phone (Include area code) 253-927-3913	Your Title ATTORNEY/OWNER
Dates of Employment From 12/1997 To PRESENT	Supervisor's Name
Nature of Practice (including frequency of court appearances and areas of special emphasis) CONTRACT PROSECUTOR, PUBLIC DEFENDER AND PRO TEM JUDGE	
Reason for Leaving N/A	

2. Previous Employer	Employer's Address
Employer's Phone (Include area code)	Your Title

Dates of Employment From To	Supervisor's Name
Nature of Practice (including frequency of court appearances and areas of special emphasis)	
Reason for Leaving	

3. Previous Employer	Employer's Address
Employer's Phone (Include area code)	Your Title
Dates of Employment From To	Supervisor's Name
Nature of Practice (including frequency of court appearances and areas of special emphasis)	
Reason for Leaving	

4. Previous Employer	Employer's Address
Employer's Phone (Include area code)	Your Title
Dates of Employment From To	Supervisor's Name
Nature of Practice (including frequency of court appearances and areas of special emphasis)	
Reason for Leaving	

5. Previous Employer	Employer's Address
Employer's Phone (Include area code)	Your Title
Dates of Employment From To	Supervisor's Name
Nature of Practice (including frequency of court appearances and areas of special emphasis)	
Reason for Leaving	

Please list any additional employment, and include the same information sought in previous Section V questions.
SEE RESUME ATTACHED FOR ALL CONTRACT POSITIONS AS EXHIBIT ONE

VI. Jurisdictions, Associations, and Awards
List all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements. WASHINGTON STATE COURTS
Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups. WSBA
Are you in good standing in every bar association of which you are a member? YES If you answered "no", please explain.
If you have been a judge, please identify court committees on which you served or administrative positions you have held. Include dates of services for each.
Please list any honors, prizes, awards, or other forms of recognition that you have received and whether they were professional or civic in nature.

VII. Professional Practice Experience

Within the last five years, did you appear in trial court:

Regularly ☒ Occasionally ☐ Infrequently ☐

Within the last five years, did you prepare appellate briefs and appear before appellate courts:

Regularly ☐ Occasionally ☐ Infrequently ☒

Within the last five years, how often did you appear in the court for which you are applying:

Regularly ☐ Occasionally ☐ Infrequently ☒

Career Experience – What percentage of your appearances in the last five years was in:

Federal Appellate Courts %

Federal Trial Courts %

State Appellate Courts %

State Trial Courts %

Municipal Courts 100 %

District Courts %

Administrative Tribunals %

Tribal Courts %

Other %

What percentage of your practice in the last five years was in:

Civil Litigation (excl. family law) %

Criminal Litigation 100%

Family Law Litigation %

Non-Litigation %

What percentage of your trials in the last five years were:

Jury Trials 100 %

Non-Jury Trials %

Indicate the total number of cases during your career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court that the following percentages: trials in which you were the sole counsel or chief counsel, jury trials, and trials where you were the arbiter/decision maker.

Court	Number	% as sole/Chief Counsel	% Jury	% as the Arbiter
Municipal Court	15	100	90	
State District Court	15	100	90	
State Superior Court				
Federal District Court				
Administrative Court				
Tribal Court				
Other				

Indicate the total number of appellate cases during your career where you appeared as counsel of record in the following courts, and indicate for each court the following percentages: cases where you were sole counsel or chief counsel, and cases where you were the arbiter/decision maker (if applicable).

Court	Number	% as sole/Chief Counsel	% as the Arbiter
State Superior Court	5	100	
WA Division I COA	1	100	
WA Division II COA			
WA Division III COA			
State Supreme Court			
Federal Circuit COA			
US Supreme Court			

Briefly describe no more than eight significant matters that you directly handled as counsel, and include the reason that each is significant to you. For each, please provide the name of the judge or other judicial officer, and the citation, if applicable. SEE ATTACHED EXHIBIT 2

State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years. NONE
Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge. SEE ATTACHED EXHIBIT 3
Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.
Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

VIII. Judicial Interest and Experience
In 75 words or less, please describe why you are seeking a judicial position. SEE ATTACHED EXHIBIT 4
In 75 words or less, please describe the type of judge you aspire to be. SEE ATTACHED EXHIBIT 4
Have you ever held a judicial office? NO If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and periods of your service.
Have you ever held public office other than a judicial office? NO If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and periods of your service.
Please briefly identify all of your experience as a neutral decision-maker (e.g. permanent or pro tem judge in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you. SEE ATTACHED EXHIBIT 4
If you seek an appellate court position, please describe how your previous judicial experience prepared you to serve as an appellate court judge.

IX. Community and Civic Activities
Please list community and civic activities, including dates and leadership roles you have held, over the last 10 years. SEE ATTACHED EXHIBIT 5

X. Access to Justice and Diversity in the Legal Profession
Please describe any activities that you have engaged in to eliminate bias or improve access to the judicial system. SEE EXHIBIT 6
What are the most significant barriers to access to justice today? In what ways have you seen these barriers in your practice? SEE EXHIBIT 6
As a member of the bench, what role, if any, do you believe that a judge has to enhance equal access to justice? SEE EXHIBIT 6
What experiences, training, or knowledge do you have in addressing diversity in the legal profession? SEE EXHIBIT 6
What can a judge, or court, do to improve diversity in the legal profession? SEE EXHIBIT 6

XI. Discipline, Disputes, and Conflicts
Have you ever been held, arrested, charged, or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation, or ordinance? NO If you answered "yes", please provide details, including case numbers. (Do not include traffic violations for which a fine of less than \$150.00 was imposed.) Please feel free to provide your view of how it bears on your present fitness for judicial office.
Has a client ever made a claim or suit against you for malpractice? NO If you answered "yes", please provide details and the current status of the claim and/or suit.
Have you ever been a party in interest, witness, or consultant in any legal proceeding? YES If you answered "yes", please provide details, including the case number. Do not list proceedings in which you were merely a guardian ad litem

or stakeholder.

SEE EXHIBIT 7

Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency, or other professional group? YES If you answered “yes”, please provide details. I RECEIVED A LETTER FROM THE WSBA STATING THAT THE COMPLAINT WAS UNFOUNDED.

Have you ever been disciplined or cited for breach of ethics or unprofessional conduct? NO If you answered “yes”, please provide details.

If you have ever served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? NO If you answered “yes”, please provide details.

If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Are you aware of anything that may affect your ability to perform the duties of a judge? NO If you answered “yes”, please provide details.

XII. References – In the evaluation process it is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. Evaluators may contact each of your references. If a reference is unreachable, your evaluation may be delayed.

Please list the names and phone numbers of up to 10 opposing counsels who know you best, including at least three opposing counsels on cases that went to trial. SEE EXHIBIT 8

If you have been a judge or otherwise have served as a neutral decision-maker within the last 10 years, please list the names and phone numbers of the last 10 attorneys who have appeared before you. SEE EXHIBIT 8

For the last five trials in which you participated (whether as a trial lawyer or decision-maker), please list as appropriate the following for each: case name, subject matter, court, judge (with phone numbers), and opposing counsel or counsel appearing before you (with phone numbers). SEE EXHIBIT 8

Please list the names and phone numbers of 10 additional attorneys familiar with your professional qualifications, skills, experience, and attributes. SEE EXHIBIT 8

Please list the names and phone numbers of up to five non-attorney references whose opinions or observations—particularly with respect to your commitment to improving access to the judicial system—would assist in the consideration of your application. SEE EXHIBIT 8

Please provide a writing sample of your work (between five and 10 pages long), written and edited by you, within the last five years. SEE EXHIBIT 9

XIII. Rating and Evaluations – The Governor’s Office requires individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. To facilitate the process, many of these organizations accept this questionnaire as the principal application in their evaluation process and may also require completion of a supplement questionnaire.

- The Washington State Bar Association (WSBA) Judicial Recommendation Committee screens and interviews candidates for state Court of Appeals and Supreme Court positions. Recommendations are reviewed by the WSBA Board of Governors and referred to the Governor for consideration when making judicial appointments. Committee information can be found on the WSBA website at <http://www.wsba.org/jrc>.

- Contact minority bar associations to determine whether an evaluation process will be conducted. Contact information can be found on the Washington State Bar Association's website at <http://www.wsba.org/Legal-Community/Minority-Bar-Associations>. This webpage contains a link to the list of Judicial Evaluation Committee Representatives for those associations who participate in standing judicial evaluation committees. Note that some of the minority bar associations may conduct judicial evaluations when judicial vacancies occur, even if committee representatives are not listed on the webpage.
- Contact the relevant county bar associations to determine whether an evaluation process will be conducted. Contact information for county bar associations can be found on the WSBA website at <http://www.wsba.org/Legal-Community/County-Bar-Associations>

List the organizations you have contacted for an evaluation.

KING COUNTY BAR ASSOCIATION, Q LAW, JOINT ASIAN, LATIN, WASHINGTON WOMEN'S, LOREN MILLER

XIV. Date and Signature – All answers and statement are true and complete to the best of my knowledge. I understand that the state may verify information, and that untruthful or misleading answers are cause for rejection of this questionnaire or dismissal if appointed. Electronic questionnaires do not require a signature; you may type in the date and your first and last name.

Date	Signature
September 16, 2017	<i>Krista White Swain</i>

EXHIBIT ONE

KRISTA COLLEEN WHITE-SWAIN

19021 SE 400TH STREET, ENUMCLAW, WASHINGTON 98022
OFFICE 253-927-3913; FAX 253-927-3889
krista@kristawhiteswain.com

Education: University of Washington, 1992, B.A. English Literature
California Western School of Law, 1996, Juris Doctorate

Member: Washington State Bar Association #26592 since December, 1996

Legal Experience:

Buckley Prosecuting Attorney, September 2016 to Present

Enumclaw Prosecuting Attorney, May, 2015 to Present

Issaquah Municipal Court, March, 2015 to Present - Pro Tem Judge

King County District Court, December 2012 to Present - Pro Tem Judge

City of Ruston, February, 2008 to Present - Prosecutor

City of Milton, April, 2007 to Present -Prosecutor

City of Pacific, December 1997 to Present - Public Defender

City of Puyallup, June 2008 to August 2016 - Prosecutor

City of Des Moines, January, 2002 to December, 2006 - Prosecutor

King County Office of Public Defense, December, 1997 to April, 2008
Conflict Public Defender in District and Superior Courts

Law Offices of Susan Amini, January, 1997 to December, 1997
Public Defender for Bellevue Municipal Court

San Diego Alternate Public Defender, 1995 - 1996
Intern - Juvenile public defense

Private Practice Experience:

I have had my own practice since December, 1997. During this time, the majority of my practice has been in the area of public law, as referenced above. In furthering my career, I have a strong interest toward improving practices and policies in the courts that serve the community. My philosophy has always been to promote compassion and justice in all interpersonal connections; whether it be in the practice of law, or any area of life that relates to others.

EXHIBIT TWO

Briefly describe no more than eight significant matters that you directly handled as counsel, and include the reason that each is significant to you. For each, please provide the name of the judge or other judicial officer, and the citation, if applicable

As a public defender, I encounter so many people who have challenges and difficulties in life. I have clients who are struggling with drug addiction, mental health issues, and domestic violence aspects in their lives. Many are homeless, have no family or other community support. Occasionally, I have a client who rises up, and is able to move out of the depths of these problems, engage with treatment, find stability and work back towards being a positive and productive member of the community. A couple of years ago, I received a call from one of my former clients who had been struggling with addiction and domestic violence issues. She had completely overcome all the issues that had plagued her, and now she and her daughter were thriving and doing quite well. She invited me out for coffee and shared with me how her life had changed. The gratitude she showed me for the part I had played in her life change was humbling. I have had a handful of such experiences from former clients, and it is amazing to see these changes. It gives me continued hope with each and every one of my clients, that no matter how bad things are, they can succeed. Judge: L. Stephen Rochon

In 2014, I prosecuted a domestic violence case in the Milton Municipal Court. This case was extremely difficult for a number of reasons. The defense attorney was the most aggressive that I have ever dealt with; the defendant was, I believed, a particularly violent perpetrator; and the victim was extremely needy. This case posed many challenges throughout the case, proceeding to a three day jury trial, which ended in a hung jury. This case taught me great patience and compassion, as well as an insight to the public's opinion about the crime of domestic violence. This is the most challenging of cases that I work with, as the issues are extraordinarily complex. Judge: Sandra Allen

In my career, there have been three times a client has come back to court with me with devastating news: they had killed someone. These have stood out in my mind given the gravity and serious nature of these events. In two of these cases, the clients had been on deferred prosecutions for DUI, and they had relapsed, and caused a collision which killed another person. The heartache involved for the victims and the victim's families is intense. However, an added aspect of the heartache occurs when one has care and compassion for the perpetrator as well. Seeing my clients' go through such pain, knowing the choices they made caused the death of another – is incredibly difficult. Seeing an event from both sides has given me a broader perspective of the world. Judge: L. Stephen Rochon

The first case I ever handled in criminal law was when I was a third year law student, working for the San Diego juvenile public defender's office. Before I began the job, the attorney I was assigned to called me

up and asked me how I would feel about handling a gang rape case. Admittedly, I was slightly taken aback, but I answered that I could work on that case without a problem. I read the case, reviewed all the evidence and then met the client. Meeting the teenaged defendant, accused with such a serious crime, seeing him not as a name, as a defendant, but as a **person**, changed my perspective on criminal law. What I thought criminal law would be, and what it really is, I found to be very different. Criminal law is about people, the community and what happens when people are separated from community. It was at that time I knew that I wanted to work in criminal law. I wanted to help people and I wanted to help make the community a better place. I find that in the twenty years since I first met that defendant, my practice has developed into more than just the law. I truly care about each defendant, whether I am prosecuting, defending, or they come before me as a judge. This person is part of our community, and this person needs my help in one way or another.

EXHIBIT THREE

Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge

In the last four years as a pro tem judge, I have found that I enjoy this work immensely. Additionally, I feel that I am good at it – perhaps better than my roles as a defense attorney or a prosecutor. With the background of both defense and prosecution, and working in those fields at the same time, I am constantly reminded of the balance; of both sides of the same coin. When I have a challenging case before me, I can truly hear and empathize with both sides. I also find that I enjoy the work, and sometimes that is the most important element!

EXHIBIT FOUR

In 75 words or less, please describe why you are seeking a judicial position

I am seeking a judicial position because I truly enjoy the work. It feels like a natural progression in my work, having started as a defense attorney, adding in prosecution, and now being able to fairly hear both sides.

In 75 words or less, please describe the type of judge you aspire to be

I aspire to be a fair, compassionate and positive judge. My wish is that all people that come before me feel that they have been heard, and that their case was fairly considered.

Please briefly identify all of your experience as a neutral decision-maker (e.g. permanent or pro tem judge in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

I have been working as a pro tem judge in King County District Court for the last five years, and in Issaquah Municipal Court for the past two years. I appear approximately two to three times per month as a judge. In King County, I usually appear in Auburn or the MRJC. I have also worked in Burien, Redmond, Bellevue and Seattle. It is difficult to name specific attorneys who appear before me, as I work with so many people. The most recent appearance as a judge was in Issaquah Municipal Court on June 15, 2017:

Appearing before me were the following attorneys:

Prosecutor Lynn Moberly, Defense attorneys – Whitney Gardner and Shawn McCully

I have handled all manner of cases as a judge, except conducting a jury trial. I have handled quite large calendars, and understand how to manage big calendars in a confined time period. I have heard lengthy, complex motion hearings, civil small claims matter, and criminal arraignments, pre-trials, sentencings and reviews. I am confident that my experience as a defense attorney, prosecutor and judge has prepared me well for the role of municipal court judge.

EXHIBIT FIVE

Please list community and civic activities, including dates and leadership roles you have held, over the last 10 years.

Mount Peak Pony Club - 2017

Boy Scout Annual Auction – 2016

Browns Point Elementary – PTA and Classroom Volunteer – 2007-2013

FUSION - Federal Way organization supporting victims of domestic violence. I worked on the annual fund raiser for many years as the arts coordinator. Approximately 2000-2009.

Blossom Benefit – Charity organization supporting women and children; co-visionary and coordinator from approximately 2007-2010

Aria Dance Company – Choreographer and performer from approximately 1997-2007

EXHIBIT 6

Please describe any activities that you have engaged in to eliminate bias or improve access to the judicial system

In my work, in all three roles, public defender, prosecutor and judge, I strive to make sure that each person in court understands the system and how it works. I want to provide the best experience possible for each person, even if that means they have to go to jail. Mental health and drug addition issues are the most significant barriers to a clear understanding and participation of legal proceedings. Occasionally, individuals who do not speak English are before the court. It is extremely important that I make sure that these persons have a clear and complete understanding of the proceedings. Sometimes it is not just the language barrier, but also a complete lack of understanding our legal system that has to be addressed.

What are the most significant barriers to access to justice today? In what ways have you seen these barriers in your practice?

The biggest problem I see are people who don't have respect and deference for all aspects of the court. It is paramount to accept all people involved in the judicial system as part of one's own community. No one is separate and apart from others. We are one community. If a person who works as a judge, prosecutor or defense attorney sees themselves as separate, that is when there begins to be disrespect and condescending attitudes. Respect and deference for the court and all parties involved are of the utmost importance.

As a member of the bench, what role, if any, do you believe that a judge has to enhance equal access to justice?

The judge has the responsibility to make sure that every individual before her is treated with respect, to make sure that there is a clear understanding of what options are available and how to access those options. Examples are: does the individual need an interpreter? Is a competency evaluation needed? Does the defendant understand what a jury trial is? Does the defendant understand what the roles are of the people in the courtroom? Having worked in public defense for 20 years, I am particularly aware of how these issues can come up, and how sometimes, it is not apparent that a person needs assistance. A thorough colloquy during every stage of the proceeding is important; from the most minor of infractions, to the most serious criminal cases.

What experiences, training, or knowledge do you have in addressing diversity in the legal profession?

I have worked in many different courts and have experience with multiple areas of diversity, including the mental health courts in King County. I have seen challenges for gay, transgender individuals; challenges for immigrants who cannot speak the language and have no idea what the justice system is or how it works. I have experienced challenges as a woman in the judicial system. Municipal and district court has people expanding a full rainbow spectrum, and I have experience with a broad degree of that spectrum.

What can a judge, or court, do to improve diversity in the legal profession?

The judge is a strong image for many people. The respect and care with which a judge hears a case is seen by many. A judge who is dismissive of a person because of color, or other challenge makes an example of him or herself to others, and that can have a ripple effect. It is imperative that a judge listen carefully and respectfully to every person in order to set an example for all to follow. If the court sees an issue that needs to be addressed, such as interpreter services, mental health issues, or confusion, the court, and the judge specifically, need to address that concern. Sometimes the concern may be delicate, and should be addressed off the bench. The judge must have a keen and discerning eye to pick up on all of these issues, and take the time with each case to make sure that everyone is clearly heard.

EXHIBIT 7

Have you ever been a party in interest, witness, or consultant in any legal proceeding?

I have been a victim/witness in a case that occurred October 13, 2009. A defendant in the Milton Municipal Court got very upset with the proceedings and ended up being taken to the ground and tased by law enforcement. While she was being taken away she made threats towards me. She was charged with harassment against me, along with assault in the third degree and attempting to disarm law enforcement. The case went to trial, and I had to testify in the Pierce County Superior Court. She was found guilty of the assault 3 and harassment. Case number 09-1-04609-5.

EXHIBIT 8

Please list the names and phone numbers of up to 10 opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.

1. Steve Crawford 425-444-6904
2. Claire Kintanar 253-298-7133
3. Martin Duenhoelter 253-592-4648
4. Barbara Bowden 253-405-9158
5. Will Gunderson 253-569-3921
6. Matt Honeywell 206-755-0860
7. Joe Cutter 253-255-7428
8. Michael Bejarano 253-740-7930 (trial)
9. Anthony Manzanares 253-905-0630 (trial)
10. Andrea Beall 253-841-5450 (trial)

If you have been a judge or otherwise have served as a neutral decision-maker within the last 10 years, please list the names and phone numbers of the last 10 attorneys who have appeared before you.

1. Jesse Salomon (206) 624-8105 EXT 78977
2. Christopher Sims (253) 859-8840
3. Saad Qadri 206-441-0900
4. Daphne Putka (206) 477-9327
5. David Roberson (206) 322-8400
6. Nyoka Maraire (206) 477-8684
7. Lynn Moberly 425-313-5767
8. Jag Matto 253-332-4879
9. Whitney Gardner 425-657-0794
10. Shawn McCully 425-657-0794

For the last five trials in which you participated (whether as a trial lawyer or decision-maker), please list as appropriate the following for each: case name, subject matter, court, judge (with phone numbers), and opposing counsel or counsel appearing before you (with phone numbers).

1. City of Ruston v. John Prather
Ruston Municipal Court
DV Assault Jury Trial
Judge Sandra Allen – 253-576-7699
Opposing Counsel – Anthony Manzanares 253-905-0630

2. City of Milton v. Erich Ruff
Milton Municipal Court
DV Assault Jury Trial
Judge Sandra Allen – 253-576-7699
Opposing Counsel – Shira Stefanik 206-355-0064

3. City of Milton v. Beatrice Gathuthu
Milton Municipal Court
DV Assault Jury Trial
Judge Sandra Allen – 253-576-7699
Opposing Counsel – Andrea Beall 253-841-5450

4. City of Milton v. _____ I don't recall the name of the defendant
The victim was named Erika Wessel
Milton Municipal Court
Assault 4 Jury Trial
Judge Sandra Allen – 253-576-7699
Opposing Counsel – Mark Knapp (253) 202-2081

5. City of Pacific v. Gary Nitschke
Pacific Municipal Court
Assault/Harassment Jury Trial
Judge L. Stephen Rochon 206-719-8213
Opposing Counsel – Michael Bejarano 253-740-7930

Please list the names and phone numbers of 10 additional attorneys familiar with your professional qualifications, skills, experience, and attributes.

1. Susan Mahoney 253-223-3391
2. Terra Moulton 360-643-0031
3. Kara Murphy 206-947-3852
4. Michael Harbeson 253-209-6366
5. Maili Barber 206-321-3123
6. Robert Hamilton 253-334-6285
7. Michael Frans 253-405-9160
8. Dennis Twichel 253-926-1494
9. Kevin Yamamoto 253-770-3324
10. Tim Jenkins 253-315-1107

Please list the names and phone numbers of up to five non-attorney references whose opinions or observations—particularly with respect to your commitment to improving access to the judicial system—would assist in the consideration of your application.

1. Kelly Rydberg 253-929-1142
2. Shelly Undlin 360-825-7771
3. Tony Ryan 206-963-7413
4. Nancy Shattuck 206-946-8277
5. Serena Daigle 253-677-0345

IN THE MUNICIPAL COURT FOR THE CITY OF PACIFIC
FOR THE STATE OF WASHINGTON

CITY OF PACIFIC,

Plaintiff,

vs.

JOELLE W. GANT,

Defendant.

) Case No. 5Z03211340

) DEFENSE MOTION TO SUPPRESS
) SEIZURE OF A MOTOR VEHICLE

COMES NOW the defendant, Joelle W. Gant, by and through the attorney of record,
Krista C. White Swain, and moves this court to suppress evidence obtained from an illegal
seizure and to dismiss the matter for lack of sufficient evidence. This motion is brought pursuant
to Article 1 §7 of the Washington State Constitution, supporting case law, argument of counsel
and the files and records herein.

Respectfully submitted this 4 December 2016

Krista C. White Swain, WSBA #26592
Attorney for Defendant

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FACTS OF THE CASE

The facts asserted herein are taken from Pacific police report 15-0269, submitted by Officer Slagter and associated with the citation filed in the above referenced matter.

Pacific Police Officer Slagter was on patrol on April 6, 2015. At approximately 5:03, am, he saw a white BMW make a u-turn at Oakhurst and 3rd Avenue in the city of Pacific. The officer indicated in his report that this was "suspicious" because the driver could have turned on Oakhurst instead of making a u-turn. The officer then followed the vehicle as it turned left on Skinner, and then stopped the vehicle for failing to signal a full 100 feet before turning left onto 1st Avenue. Once stopped, the driver identified himself as the defendant, Joelle Gant.

ISSUE PRESENTED

Whether the court should suppress identification evidence collected as a result of an illegal seizure of the motor vehicle based on a pretextual stop.

ARGUMENT

The driver in this case, Mr. Gant, conducted a U-turn on 3rd Avenue. U-turns are permitted under RCW 46.61.295, as long as it is safe to do so. The officer made no indication that the turn was unsafe or obstructed traffic in any way. According to the police report, such u-turn was allowed by law. However, the officer found the mere behavior of making a u-turn to be suspicious behavior, and began following the vehicle, with no other reason than to further investigate the suspicious behavior. The officer was now searching for a reason to stop this vehicle and conduct a fishing expedition. This is a pretext stop, and not allowed by law.

1 Whether pretextual or not, a traffic stop is a "seizure" for the purpose of constitutional
2 analysis, no matter how brief. *Delaware v. Prouse*, 440 U.S. 648, 653, 99 S.Ct. 1391, 59 L.Ed.2d
3 660 (1979); *Whren*, 517 U.S. at 809-10, 116 S.Ct. 1769; *Mesiani*, 110 Wash.2d at 460, 755 P.2d
4 775 (Dolliver, J., concurring). An ordinary traffic stop has been analogized by federal courts to
5 investigative detention subject to the criteria of reasonableness set forth in *Terry v. Ohio*, 392
6 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968) and *United States v. Botero-Ospina*, 71 F.3d 783,
7 786 (10th Cir.1995). Under the Fourth Amendment to the United States Constitution, such
8 investigative detention is permissible only if:

- 9 (1) "the officer's action was justified at its inception," and
10 (2) "it was reasonably related in scope to the circumstances which justified the
11 interference in the first place." *Terry*, 392 U.S. at 20, 88 S.Ct. 1868.
12

13 Although federal courts construing the Fourth Amendment have concluded pretextual
14 traffic stops may be accomplished without a warrant, Washington courts are not bound by that
15 result under the state constitution which provides unique and substantially greater protection.
16 *State v. Ladson*, 138 Wn.2d 343, 979 P.2d 833 (1999).

17 The essence of this, and every, pretextual traffic stop is that the police are pulling over a
18 citizen, not to enforce the traffic code, but to conduct a criminal investigation unrelated to the
19 driving. Therefore, the reasonable articulable suspicion that a traffic infraction has occurred
20 which justifies an exception to the warrant requirement for an ordinary traffic stop does not
21 justify a stop for criminal investigation. *Ladson*, at 838.
22

23 In the instant case, the officer's attention was drawn to the vehicle because it made a u-
24 turn instead of turning right on Oakhurst and driving through that road until it reconnected with
25 Skinner. This makes no sense. The officer is using subjective judgment on the mind of the

1 driver, Mr. Gant, by making the broad assumption that Mr. Gant knew how to navigate the back
2 roads of the city. The officer's report indicates that the mere action of the u-turn is "suspicious"
3 behavior. The action of a u-turn without more, is not suspicious behavior. It is not an infraction,
4 and there is no basis to support a suspicion of criminal activity to support a seizure. There are no
5 facts to support the driver's action being suspicious.

6 The Washington State constitutional provision of Article 1, section 7, is designed to
7 guard against "unreasonable search and seizure, made without probable cause." *State v.*
8 *Fields*, 85 Wash.2d 126, 130, 530 P.2d 284 (1975). However, the problem with a pretextual
9 traffic stop is that it is a search or seizure which cannot be constitutionally justified for its true
10 reason (i.e., speculative criminal investigation), but only for some other reason (i.e., to enforce
11 traffic code) which is at once lawfully sufficient but not the real reason. Pretext is therefore a
12 triumph of form over substance; a triumph of expediency at the expense of reason. But it is
13 against the standard of reasonableness which our constitution measures exceptions to the general
14 rule, which forbids search or seizure absent a warrant. Pretext is result without reason. *Ladson*,
15 at 838.

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18 Even under the Fourth Amendment, an investigatory stop for a traffic infraction (Terry
19 stop) is proper only under the Fourth Amendment if "the officer's action was justified at its
20 inception." *Terry*, 392 U.S. at 20, 88 S.Ct. 1868. Here, Officer Slagter was "suspicious" of Mr.
21 Gant's driving for no reason that involved *articulated* suspicion. This suspicion was not justified
22 at its inception, therefore, the subsequent following of Mr. Gant's vehicle was without substance.
23 The mere failing to signal a full one hundred feet is certainly a pretext created by the officer to
24 stop the vehicle and continue to investigate a subjective "suspicion."
25

1 The question, then, becomes whether the fact that someone has committed a traffic offense,
2 such as failing to signal, or eating while driving, justifies a warrantless seizure which would not
3 otherwise be permitted absent that "authority of law" represented by a warrant. Article I, section
4 7, forbids use of pretext as a justification for a warrantless search or seizure because *the*
5 *Washington State constitution requires the court to look beyond the formal justification for the*
6 *stop to the actual one.* In the case of pretext, the actual reason for the stop is inherently
7 unreasonable, otherwise the use of pretext would be unnecessary.
8

9
10 The Washington Supreme Court adopted a strict no-pretext rule in *State v. Michaels*, 60
11 Wash.2d 638, 374 P.2d 989 (1962). There the defendant was stopped and arrested for failing to
12 use a left-turn signal and was searched incident to the arrest. *Id.* at 639-40, 374 P.2d 989. It was
13 undisputed that the defendant failed to signal and that such failure constituted an arrestable
14 offense; however, the facts revealed the stop and arrest were mere pretexts for the officer's desire
15 to conduct a criminal search. Indeed, the search turned up gambling dice for which defendant
16 was prosecuted. *Id.* at 640, 374 P.2d 989. The issue presented was whether a search incident to a
17 pretextual traffic stop and arrest was valid. After discussing and citing the large body of
18 Washington state law on automobile search and seizure, *Id.* at 640-44, 374 P.2d 989, the court
19 rejected the justification of pretext and suppressed the evidence, squarely holding, "An arrest
20 may not be used as a pretext to search for evidence." *Id.* at 644, 374 P.2d 989 (citing *United*
21 *States v. Lefkowitz*, 285 U.S. 452, 52 S.Ct. 420, 76 L.Ed. 877, 82 A.L.R. 775 (1932),
22 and *Taglavore v. United States*, 291 F.2d 262 (9th Cir.1961)). Just as an arrest may not be used
23 as a pretext to search for evidence, a traffic infraction may not be used as a pretext to stop to
24 investigate for a sufficient reason to search even further.
25

1 In the *Ladson* case, the officer saw the driver of the motor vehicle and wanted to
2 investigate him for suspicious behavior that was completely unsubstantiated (drug sales). This
3 belief led to the officer stopping the vehicle for expired tabs; which was a legal justification, but
4 not the actual reason for the stop. *Ladson* at 836.

5 There is a well settled principled holding in *Michaels* and later in *Ladson* that a
6 warrantless search may not constitutionally follow a facially valid but pretextual seizure for an
7 infraction, or arrest. In both cases the arrest (or stop) is permissible but for the fact it is
8 a pretext to accomplish an impermissible ulterior motive. In *Michaels* the search was incident to
9 a pretextual arrest whereas in *Ladson* and this case, the stop was a pretext for an investigation to
10 discover grounds which would justify yet a further search.
11

12
13 Using the traffic code to investigate an officer's unjustified "suspicion" is
14 forbidden pretext to circumvent our state constitution article I, section 7, warrant requirement or
15 expand "jealously guarded" exceptions. Pretext is no substitute for reason. Thus, this and other
16 pretextual search cases prove the rule that recognized exceptions to the warrant requirement are
17 limited by the reason which called them into existence, not a pro forma device to undermine the
18 "authority of law" warrant requirement enshrined in our state constitution. *Ladson* at 841.
19

20 The ultimate teaching of the case law is that the police may not abuse their authority to
21 conduct a warrantless search or seizure under a narrow exception to the warrant requirement
22 when the reason for the search or seizure does not fall within the scope of the reason for the
23 exception. *Id.* at 842. In this case, it is clear from a reading of the report that the officer found
24 the defendant's lawful behavior "suspicious" for no valid articulable reason.
25

1 When determining whether a given stop is pretextual, the court should consider the
2 totality of the circumstances, including both the subjective intent of the officer as well as the
3 objective reasonableness of the officer's behavior. *Cf. State v. Angelos*, 86 Wash.App. 253,
4 256, 936 P.2d 52 (1997) ("When the use of the emergency exception is challenged on appeal, the
5 reviewing court must satisfy itself that the claimed emergency was not simply a pretext for
6 conducting an evidentiary search. To satisfy the exception, the State must show that the officer,
7 both subjectively and objectively, 'is actually motivated by a perceived need to render aid or
8 assistance.' ") (citations omitted) (quoting *State v. Loewen*, 97 Wash.2d 562, 568, 647 P.2d
9 489 (1982)). The officer's motivation at the inception of the contact is what the court should
10 look to when determining the reason for the stop. Here, the officer found a legal traffic
11 movement "suspicious." This is not a basis for a seizure.
12

13
14 When an unconstitutional search or seizure occurs, all subsequently uncovered evidence
15 becomes fruit of the poisonous tree and must be suppressed. *State v. Kennedy*, 107 Wash.2d 1,
16 4, 726 P.2d 445 (1986). Under article I, section 7, suppression is constitutionally required. *State*
17 *v. White*, 97 Wash.2d 92, 110-12, 640 P.2d 1061 (1982); *State v. Boland*, 115 Wash.2d 571, 582-
18 83, 800 P.2d 1112 (1990). Exclusion provides a remedy for the citizen in question and saves the
19 integrity of the judiciary by not tainting our proceedings by illegally obtained evidence. *State v.*
20 *Crawley*, 61 Wash.App. 29, 34-35, 808 P.2d 773 (1991).
21

22 Here, the initial stop, which is a seizure for constitutional purposes, was without authority of
23 law because the reason for the stop (to investigate the "suspicious" behavior), was not exempt
24 from the warrant requirement. It is elementary that "[i]f the initial stop was unlawful, the
25

1 subsequent search and fruits of that search are inadmissible...." *State v. Kennedy*, 107 Wash.2d 1,
2 4, 726 P.2d 445 (1986).

3
4
5
6 CONCLUSION

7 Mr. Gant's lack of knowledge as to the navigation of the back roads of the City of Pacific
8 is not suspicious behavior, and certainly not enough objective reason to conduct a *Terry* stop of
9 his motor vehicle. Furthermore, to find a minor infraction such as failing to signal a full one
10 hundred feet before turning is a basis to support the real purpose of investigating "suspicious"
11 behavior is specifically addressed by the highest court in the State of Washington. It is
12 specifically prohibited. It is clearly an illegal seizure. The evidence obtained as a result of the
13 seizure must therefore be suppressed. With such suppression, the city has no evidence with
14 which to prosecute a criminal action against Mr. Gant, and this case must be dismissed.
15

16
17 Dated this 4 December 2016 at Enumclaw, Washington.

18
19 Krista White Swain
20 Krista White Swain, WSBA #26592
21 Attorney for Joelle Gant
22
23
24
25

IDENTIFY TEN OF THE MOST SIGNIFICANT MATTERS THAT YOU PERSONALLY HANDLED. FOR EACH, BRIEFLY STATE THE REASON EACH WAS SIGNIFICANT TO YOU; BRIEFLY SUMMARIZE THE SUBSTANCE OF EACH CASE; AND DESCRIBE THE NATURE AND DATES OF YOUR PARTICIPATION. (Provide the citation if a case was reported; if you have been a judge, include some cases that have been tried before you.)

The first case I ever handled in criminal law was when I was a third year law student, working for the San Diego juvenile public defender's office. Before I began the job, the attorney I was assigned to called me up and asked me how I would feel about handling a gang rape case. Admittedly, I was slightly taken aback, but I answered that I could work on that case without a problem. I read the case, reviewed all the evidence and then met the client. Meeting the teenaged defendant, accused with such a serious crime, seeing him not as a name, as a defendant, but as a *person*, changed my perspective on criminal law. What I thought criminal law would be, and what it really is, I found to be very different. Criminal law is about people, the community and what happens when people are separated from community. It was at that time I knew that I wanted to work in criminal law. I wanted to help people and I wanted to help make the community a better place. I find that in the twenty years since I first met that defendant, my practice has developed into more than just the law. I truly care about each defendant, whether I am prosecuting, defending, or they come before me as a judge. This person is part of our community, and this person needs my help in one way or another.

I remember the first case that I ever tried before a jury: *City of Bellevue v. Thomas Keys*. As my first jury trial, I was intimidated, anxious, and determined. Although my client was difficult to work with, I forged ahead and ended up with a hung jury. This case helped solidify the career choice I had made. Before and even during law school, I had not envisioned working in criminal law, or even doing trial work, but my path continued to weave towards these two areas. I am glad that I made this choice, as I continue to love my work, despite seeing the continued problems before me of addiction, mental health issues, and all the challenges of life.

Early in my career, I had a case where I brought a search and seizure motion based on an officer entering the home of my client. I lost the motion in municipal court, but took the case to the superior court on a RALJ appeal. Losing again, I asked for and received a discretionary review at the court of appeals. It is the only time I have been to this court and am so glad that I have had that experience. Even though the court ultimately disagreed with my motion, I was grateful for the chance to present argument there.

During the time that I worked for the Office of Public Defense as a conflict attorney, I was given a handful of appeals where the defendants were asserting ineffective assistance of counsel. These cases usually involved challenging clients who were demanding in many ways. In handling these cases, I learned a lot about appellate work, and much about how to handle difficult clients. I learned immense patience and tolerance in this process. I also earned a reputation as someone who could handle difficult cases and difficult clients. Most difficult clients simply do not feel heard, and sometimes, just listening – truly listening – can make a huge difference in the attitude a client has toward the entire judicial system.

As a prosecutor, I tried a case where a teenaged, severely mentally incapacitated girl had been kicked repeatedly by her care worker. This happened in a public area and was witnessed by several teachers. I felt extremely strong about the case and developed a relationship with the victim's mother in preparing for the trial. To me it was such a simple and straight forward case: I had witnesses that were extremely credible and a vulnerable victim. I even had a jury member with a disabled child. The defense attorney was thoroughly unlikable. What could possibly go wrong? Somehow, the jury found the defendant not guilty. This was such a blow in so many ways. I remember going into the court office and crying – I had never been so devastated with a loss at trial. I felt that I had let down the victim and her mother, that I had failed as an attorney. In speaking to the jury afterwards, they told me how much they like me, and that I did such a good job, they had just believed there was reasonable doubt. This was an incredibly painful learning experience. An attorney can have a strong case, present it well, but the trier of fact makes the decision based on what they perceive.

In my felony practice, I defended several serious felony cases. There were a few that stood out in my mind, and particularly an assault 2 case. The defendant was accused of stabbing another young man. The defendant himself was quite young, 19 years I believe. When I first met with him, he wanted to plead guilty and do his time. He did not want to explore options, did not want to go to trial, and did not want to discuss mitigating circumstances. I accepted his decision to go forward without challenging the state's case, but thought I could assist in presenting something positive at sentencing. I asked him a lot of questions about his life, his family, who he was and who he wanted to be. When I asked him about the crime itself, he told me that he had stabbed the other person because he had "heard" that the person had said something negative about him. He did not appear to feel any guilt or remorse for his actions. Many people would dismiss this young man as unredeemable and a horrible person. Of course, it was an awful crime and I was shocked that another person could react this way toward another. However, this caused me great concern and sadness, and I wanted to help this young man in any way that I could. He was obviously suffering such a disconnection from others that he could not possibly live a normal life. I truly felt that there should be some way to help people who are so completely disconnected. I learned a great deal from this young man – much of it sadness and despair for the people who are thrown away in our society. I believe that every person has something positive to offer to the world, and sometimes it takes a monumental effort to reach that with individuals such as this young man. I don't know what happened to him in the long run, but I hope he found a way to learn compassion for others.

In my career, there have been three times a client has come back to court with me with devastating news: they had killed someone. These have stood out in my mind given the gravity and serious nature of these events. In two of these cases, the clients had been on deferred prosecutions for DUI, and they had relapsed, and caused a collision which killed another person. The heartache involved for the victims and the victim's families is intense. However, an added aspect of the heartache occurs when one has care and compassion for the perpetrator as well. Seeing my clients' go through such pain, knowing the choices they made caused the death of another – is incredibly difficult. Seeing an event from both sides has given me a broader perspective of the world.

As a public defender, I encounter so many people who have challenges and difficulties in life. I have clients who are struggling with drug addiction, mental health issues, and domestic violence aspects in their lives. Many are homeless, have no family or other community support. Occasionally, I have a client who rises up, and is able to move out of the depths of these problems, engage with treatment, find stability and work back towards being a

positive and productive member of the community. A couple of years ago, I received a call from one of my former clients who had been struggling with addiction and domestic violence issues. She had completely overcome all the issues that had plagued her, and now she and her daughter were thriving and doing quite well. She invited me out for coffee and shared with me how her life had changed. The gratitude she showed me for the part I had played in her life change was humbling. I have had a handful of such experiences from former clients, and it is amazing to see these changes. It gives me continued hope with each and every one of my clients, that no matter how bad things are, they can succeed.

In my work as a pro tem judge, I often get the calendars that the other judges don't want to do, such as the infraction calendars. At first, I did not like to do these calendars, but after a few, I decided to enjoy it! I love to find the positive wherever I can. Most people that appear for the infraction calendar are hard working, bill paying members of our community – slightly different than the usual case of challenges in the criminal court. Oftentimes, it is a person's first and only experience with the judicial system. I realized this was an excellent opportunity to show the public the best side of the judiciary, and the court as a whole. So I have fun with the calendar: I am my most pleasant and smiling; I sometimes joke with the defendants or even poke a little fun at the prosecutor if they are good sports. I make sure that everyone understands the entire process, and try to give each person a full opportunity to be heard. Of course there are some times when a person is truly disgruntled and they can't be respectful, but as a whole, it's a wonderful way to give the public a positive view of the court even if they have to pay a ticket.

The last motion hearing I heard as a judge was a challenge. The defense attorney did not like the officer witness, he had no respect for the prosecutor, and was upset about discovery issues. The prosecutor was quite new and extraordinarily thorough in her presentation, and the case ended up going over well into the afternoon. There was so much animosity between the witness and defense attorney that we had to take a recess. During that time, I brought both counsel into chambers to discuss the idea of respect, decorum, and deference. Luckily, it never came to blows! In this case I contemplated the idea of deference, not just to the bench, but to the entire process and entire court. One can zealously defend one's client and aggressively challenge a case without losing sight of respect for the entire proceeding. It is important for all parties, the judge and witness to all realize that this process works best when everyone is respectful to one another.

ARE THERE ANY EXPERIENCES OR PROFESSIONAL CONTRIBUTIONS AFFECTING WOMEN (parties, lawyers, judges or laypersons) THAT YOU WOULD LIKE TO HAVE WWL CONSIDER DURING THE RATING PROCEDURE?

As a young woman, I was occasionally treated differently because of my youth and my looks. I noticed this, but did not question it. This was the way some men were. Sometimes I would benefit from it, and other times I was treated as a lower class citizen. In looking back, hindsight has shown me that I was far too accepting of the bad behavior of others. I knew that I was smart and effective and had many qualities that had nothing to do with my sex or my age, but I just accepted discrimination. This was partly due to naivety, and partly because the world just works this way. I couldn't change another's behavior. However, I can set an example by being a strong, intelligent woman, and expecting the same respect that a man receives. I still encounter discrimination in many forms. It is easier to see now that I am older and wiser. What shocks me the most is when I see it from other women.

Women aren't the same as men and have different perspectives to offer. I have found that I have incredible compassion, empathy and patience. I see these attributes as strengths in my practice. As I have grown, become a mother, and developed my practice, I have learned to listen, to cull out the lies and defenses and to hear what is important. Sometimes, it is not in what a person is saying, but how they are saying it that speaks the strongest.



Justice... Professionalism... Service... Since 1886

February 9, 2017, 2017

Ms. Krista White-Swain

Via email to: kristaseain@gmail.com

Dear Ms. Swain:

This letter is to inform you that the King County Bar Association's Judicial Candidate Evaluation Committee has rated you "Well Qualified" for the position of King County District Court Judge.

Candidates have seventy-two hours from the time notification is sent to the candidate to inform the Co-Chairs or the President of the Association, in writing (including by email) of the Candidate's desire to seek reconsideration of the rating. If such notification is not received then the rating will become final. Ratings will not be published prior to expiration of the seventy-two hours.

Your rating will remain in effect for appointment or election until February 8, 2020, three years from the date of your rating which was February 8, 2017.

The King County Bar Association realizes that our judicial screening process is a demanding one and your participation is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcia Nelson".

Marcia Nelson, Co-Chair

A handwritten signature in black ink, appearing to read "John M. Casey".

John M. Casey, Co-Chair

cc: Kate Batuello, KCBA President



January 26, 2017

The bar association of lesbian, gay,
bisexual, transgender, and queer legal
professionals and allies

P.O. Box 1991
Seattle, WA 98111-1991
[www.qlaw.org](http://www qlaw.org)

Via email: kristaswain@gmail.com

Krista Swain

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Re: QLaw Judicial Evaluation Rating

Dear Ms. Swain:

Thank you for interviewing with the QLaw Judicial Evaluation
Committee on January 19, 2017.

The Committee has issued you a rating of **Well Qualified** for
King County District Court.

Our association appreciates the time you took to meet with us
and your interest in our evaluation. We wish you well in your
endeavors.

Sincere Regards,

Abigail Caldwell, Co-Chair QLaw JEC

Catherine Elliott, Co-Chair QLaw JEC

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LATINA/O BAR ASSOCIATION OF WASHINGTON

ASOCIACIÓN DE ABOGADOS LATINOS DE WASHINGTON

P.O. BOX 21134 ♦ SEATTLE, WA ♦ 98111-3134

www.lbaw.org

"Representing the Concerns and Goals of Latino Attorneys and the Latino Community"

January 20, 2017

Hon. Krista C. White-Swain

Sent via email to kristaswain@gmail.com

Dear Judge White-Swain:

On behalf of the Latina/o Bar Association of Washington, I want to thank you for taking the time to meet the Judicial Evaluations Committee. We consider it a great privilege and responsibility to evaluate candidates for judicial office.

After careful consideration of the materials you submitted, the references we contacted, and your interview in support of appointment/election to King County District Court, the Judicial Evaluations Committee found you Well Qualified for that position.

Please note that the aforementioned statement is a rating only. The rating should not be construed as an endorsement.

Again, thank you for your time and interest in a rating from the Latina/o Bar Association of Washington.

Sincerely,

/s/

Debbie Akhbari

André M. Peñalver

Co-Chairs, Judicial Evaluations Committee

Latina/o Bar Association of Washington

cc: David A. Perez, President, Latina/o Bar Association of Washington
Aimée Sutton, President-Elect, Latina/o Bar Association of Washington

Joint Asian Judicial Evaluations Committee
Asian Bar Association of Washington
Filipino Lawyers of Washington
Korean American Bar Association of Washington
South Asian Bar Alliance of Washington
Vietnamese American Bar Association of Washington

c/o Robert F. Noe
Kenyon Disend, PLLC
11 Front Street So.
Issaquah, WA 98027
T (425) 392-7090
Cell (509) 910-7372
bob@kenyondisend.com

January 23, 2017

VIA EMAIL TO: kristaswain@gmail.com

Krista C. White-Swain
19021 SE 400th St.
Enumclaw, WA 98022

Dear Mr. Swain:

Thank you for participating in the JAJEC evaluation process. In consideration of your experience, references, and interview, your JAJEC rating is as follows:

King County District Court, SE District: “Qualified”

This rating expires on January 23, 2020. We wish you all the best in your endeavors.

Very truly yours,

Robert F. Noe
Chair, Joint Asian Judicial Evaluation Committee

Cc: Andrea Chin, Asian Bar Association of Washington, President
 John Feters, Filipino Lawyers of Washington, President
 Crystal Nam, Korean American Bar Association of Washington, President
 Mudit Kakar, South Asian Bar Alliance of Washington, President
 Linda Tran, Vietnamese American Bar Association of Washington, President
 Nick Wagner, Metropolitan King County Council



Loren Miller Bar Association

P.O. Box 21964
Seattle, WA 98111-3964

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January 10, 2017

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Ala'ilima*

Krista White-Swain
19021 SE 400th St.
Enumclaw, WA 98022

Vice President
Raina Wagner

Re: Loren Miller Bar Association Judicial Evaluation Rating

Treasurer
Stacy Smith

Dear Ms. White-Swain:

Secretary
Erika Evans

Thank you for interviewing with the Loren Miller Bar Association Judicial Evaluation Committee on January 5, 2017. After reviewing your qualifications and a recommendation by the Judicial Evaluation Committee, the Executive Board of the Loren Miller Bar Association is pleased to inform you that it has issued a judicial rating for the King County District Court of:

President-Elect
Christopher Sanders

"Qualified"


Members-at-Large
*Hon. Tanya Thorp
RaShelle Davis
Lionel Greaves
Erin McIntire
Moe Spencer*

This judicial rating from the Loren Miller Bar Association is valid for a period of three (3) years from the date of this letter. Thank you again for taking the time to meet with members of the Loren Miller Bar Association. We wish you much success in your judicial pursuits.

**Immediate Past
President**
Ian Warner

Sincerely,

Loren Miller
Bar Association
P.O. Box 21964
Seattle, WA 98111


Jamila E. Taylor, Chair
Loren Miller Bar Association
Judicial Evaluation Committee

www.LMBA.net

CITY OF BLACK DIAMOND

REQUEST FOR QUALIFICATIONS FOR MUNICIPAL COURT JUDGE

The City of Black Diamond ("City"), Washington, is requesting proposals from well qualified attorneys interested in serving as the Presiding Judge for the Black Diamond Municipal Court.

DESCRIPTION

The Municipal Court Judge is the Presiding Judge of the City of Black Diamond Municipal Court and presides over and adjudicates a variety of hearings and trials related to infraction cases, criminal misdemeanor and gross misdemeanor cases, and civil forfeiture cases in accordance with established legal procedures as prescribed in Washington State law; imposes appropriate sentences and penalties as prescribed by law; communicates with other city, county and state criminal justice agencies.

The person selected must take an oath of office, be bondable and must be willing to be contacted nights and weekends. The Presiding Judge must comply with the Code of Judicial Conduct and be subject to ethics laws applicable to this office.

The Black Diamond Municipal Court is located within the Police Department building. Staffing in the Municipal Court consists of a Court Administrator and a Court Clerk who perform court clerk and administrative support functions. The Judge is appointed by the Mayor, subject to confirmation by the City Council. The term for this appointment begins January 1, 2018 and ends December 31, 2021. As of August 1, 2017, there have been a total of 659 total case filings, of which 13 were non-traffic related. Regular court dates are the 2nd and 4th Wednesdays of each month. Additionally, if needed jury trials are set for the 4th week of each month.

The City recognizes the need for judicial independence. Consistent with General Rule 29, the Presiding Judge has independence from the executive and legislative branches in carrying out the Court's purely judicial responsibilities. At the same time, the court is a municipal department of the City and subject to City oversight as allowed by General Rule 29. To date, the Court and the City Administration have enjoyed a positive working relationship.

QUALIFICATIONS

Education and Experience: Minimum qualifications include JD degree from an accredited law school, license to practice law in the state of Washington, membership in the Washington State Bar Association, and eight (8) years experience as a practicing attorney or judge. Experience as a court commissioner, municipal/district judge, or judge pro-tem preferred.

Necessary Knowledge, Skills and Abilities: Considerable knowledge of the standards for Municipal Court Administration in the State of Washington; considerable knowledge of proper courtroom procedure and the rules of evidence; working knowledge of criminal law; working knowledge of local ordinances, laws and procedures; skill in basic

supervisory principles and practices; ability to grasp complex factual data, draw appropriate conclusions and formulate sound legal decisions; ability to communicate complex legal ideas and/or decisions to a variety of audiences in clear, comprehensive and professional manner; hear and weigh testimony and evidence; ability to impose appropriate sentences and penalties in accordance with the laws of the State of Washington; ability to communicate effectively both orally and in writing; ability to read, interpret, apply and explain codes, rules, regulations, policies and procedures; ability to establish and maintain effective working relationships with the City Administration, City Council, City Prosecutor, Police Department, Public Defender, Court staff, and the general public.

COMPENSATION/HOURS OF WORK

The City and Presiding Judge will enter into a professional services agreement which will address compensation. Proposals shall clearly set forth fees or fee structure to be charged for services. A flat fee proposal is preferred.

SELECTION PROCESS

All proposals will be reviewed and screened by the Mayor. Finalists will be invited for interviews. After the interview process the Mayor will make a recommendation to the City Council for consideration at a regular council meeting.

REQUIREMENTS

The selected attorney will be required to undergo a reference check prior to appointment, and to provide to the City proof of insurance as required (including professional liability insurance).

INSTRUCTIONS TO REPLY TO THIS REQUEST FOR QUALIFICATIONS

To reply to the RFQ, please submit the following: (1) resume; (2) cover letter and statement of qualifications, which must include Washington State Bar Numbers for all attorneys responding to this RFQ; (3) three professional references with addresses and phone numbers, (4) a release allowing the City of Black Diamond access to all WSBA disciplinary investigations and/or actions, and (5) answers to the Governor's Uniform Judicial Evaluation Questionnaire found at www.governor.wa.gov/judicial/uniform_eval_questionnaire.doc. All materials shall be submitted in one packet and provided to the City Clerk/HR Manager, Brenda L. Martinez at City of Black Diamond, 24301 Roberts Drive, PO Box 599, Black Diamond, WA 98010.

ALL APPLICATION MATERIALS SHALL BE SUBMITTED BY 4:00 P.M. ON SEPTEMBER 21, 2017.

Upon the City's discretion, proposals submitted after the due date and time may be considered. Proponents accept all risks of late delivery of mailed proposals regardless of fault. **The Proponent bears all responsibility for ensuring the mailing address is correct.**

RCW 3.50.040

Municipal judges—Appointed—Terms, qualifications—District judge as part-time municipal judge.

Within thirty days after the effective date of the ordinance creating the municipal court, the mayor of each city or town shall appoint a municipal judge or judges of the municipal court for a term of four years. The terms of judges serving on July 1, 1984, and municipal judges who are appointed to terms commencing before January 1, 1986, shall expire January 1, 1986. The terms of their successors shall commence on January 1, 1986, and on January 1 of each fourth year thereafter, pursuant to appointment or election as provided in this chapter. Appointments shall be made on or before December 1 of the year next preceding the year in which the terms commence.

The legislative authority of a city or town that has the general power of confirmation over mayoral appointments shall have the power to confirm the appointment of a municipal judge.

A person appointed as a full-time or part-time municipal judge shall be a citizen of the United States of America and of the state of Washington; and an attorney admitted to practice law before the courts of record of the state of Washington: PROVIDED, That in a municipality having a population less than five thousand persons, a person who has taken and passed by January 1, 2003, the qualifying examination for a lay candidate for judicial officer as provided by rule of the supreme court may be the judge. Any city or town shall have authority to appoint a district judge as its municipal judge when the municipal judge is not required to serve full time. In the event of the appointment of a district judge, the city or town shall pay a pro rata share of the salary.

[2002 c 136 § 2; 1984 c 258 § 106; 1975-'76 2nd ex.s. c 35 § 1; 1961 c 299 § 53.]

NOTES:

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Black Diamond, Washington, Code of Ordinances >> Title 2 - ADMINISTRATION
AND PERSONNEL >> Chapter 2.36 MUNICIPAL COURT >>

Chapter 2.36 MUNICIPAL COURT

Sections:

2.36.010 Established—Name.
2.36.020 Jurisdiction.
2.36.030 Judges—Appointment and qualifications.
2.36.040 Salaries and costs.
2.36.050 Municipal court employees.
2.36.060 Judges pro tem.
2.36.070 Judicial vacancy.
2.36.080 Municipal court hours.
2.36.090 Sentences.
2.36.100 Deferral and suspension of sentences.
2.36.110 Complaints.
2.36.120 Pleadings, practice and procedure.
2.36.130 Case transfers.
2.36.140 Court seal.
2.36.150 Removal of judge.
2.36.160 Civil jury trials.
2.36.170 Criminal process.

2.36.010 Established—Name.

There is established a municipal court entitled "The Municipal Court of the City of Black Diamond," hereinafter referred to as "municipal court," which court shall have jurisdiction and shall exercise all powers enumerated in this chapter and in RCW Chapter 3.50, as amended by Chapter 258, Laws of 1984, together with such other powers and jurisdiction as are generally conferred upon such a court in this state, either by common law or by express statute.

(Ord. 296 § 2, 1984)

2.36.020 Jurisdiction.

- A. The municipal court shall have exclusive original jurisdiction over traffic infractions and civil infractions arising under city ordinances, and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by

the city. The municipal court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes.

- B. The municipal court is empowered to forfeit cash bail, or bail bonds, and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions and civil infractions, arising under such ordinances and to pronounce judgment in accordance therewith.

(Ord. 296 § 3, 1984)

(Ord. No. 1003, § 2, 6-20-2013)

2.36.030 Judges—Appointment and qualifications.

- A. The municipal judge holding office on July 1, 1984, the effective date of the ordinance codified in this chapter, shall continue to hold office until expiration of his or her term or January 1, 1986, whichever occurs first. The term of a successor shall commence on January 1, 1986 and on January 1st of each fourth year thereafter, pursuant to appointment as provided below.
- B. The municipal judge shall be appointed by the mayor, subject to confirmation by the city council, for a term of four years. Appointments shall be made on or before December 1st of the year next preceding the year in which the term commences.
- C. A person appointed as municipal judge shall be a citizen of the United States of America and of the state of Washington and a resident of King County, Washington.

(Ord. 575 § 1, 1995; Ord. 296 § 4, 1984)

2.36.040 Salaries and costs.

The salary of the municipal court judge shall be fixed by ordinance. All costs of operating the municipal court, including but not limited to salaries of judges and court employees, dockets, books of records, forms, furnishings and supplies, shall be paid wholly out of the funds of the city. The city shall provide a suitable place for holding court and pay all expenses of maintaining it.

(Ord. 296 § 5, 1984)

2.36.050 Municipal court employees.

All employees of the municipal court shall, for all purposes, be deemed employees of the city. They shall be appointed by and serve at the pleasure of the municipal judge.

(Ord. 296 § 6, 1984)

2.36.060 Judges pro tem.

A. The mayor shall, in writing, appoint judges pro tem who shall act in the absence or disability of the regular judge of the municipal court, or subsequent to the filing of an affidavit of prejudice.

B. The judge pro tem shall be qualified to hold the position of judge of the municipal court, as provided in this chapter.

C. The judge pro tem shall receive such compensation as fixed by ordinance.

D. The term of the appointment shall be specified in writing, but in any event shall not extend beyond the term of the appointing mayor.

(Ord. 862 § 1, 2008; Ord. 296 § 7, 1984)

2.36.070 Judicial vacancy.

Any vacancy in the municipal court due to a death, disability, or resignation of a municipal court judge shall be filled by the mayor for the remainder of the unexpired term. The appointment shall be subject to confirmation of the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter.

(Ord. 296 § 8, 1984)

2.36.080 Municipal court hours.

The municipal court shall be open and shall hold such regular and special sessions as may be prescribed by the municipal court judge; provided, that the municipal court shall not be open on nonjudicial days.

(Ord. 296 § 9, 1984)

2.36.090 Sentences.

- A. In all cases of conviction, unless otherwise provided in RCW Chapters 3.30 through 3.74 as now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.
- B. A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in the superior court.
- C. Every person convicted by the municipal court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance, shall be punished by a fine of not more than five thousand dollars or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment.

(Ord. 296 § 10, 1984)

2.36.100 Deferral and suspension of sentences.

- A. After a conviction, the court may defer sentencing and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges.
- B. For a period not to exceed two years after imposition of sentence, the court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines.
- C. Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court

shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for the time served and money paid on fine and costs.

- D. Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. If the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held.

(Ord. 296 § 11, 1984)

2.36.110 Complaints.

All criminal prosecutions for the violation of a city ordinance shall be conducted in the name of the city and may be upon the complaint of any person.

(Ord. 296 § 12, 1984)

2.36.120 Pleadings, practice and procedure.

Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing, or hereafter adopted, governing pleadings, practice and procedure applicable to district courts.

(Ord. 296 § 13, 1984)

2.36.130 Case transfers.

A transfer of a case from the municipal court to either another municipal judge of the same city or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed in accordance with RCW 3.66.090 in all civil and criminal proceedings.

(Ord. 296 § 14, 1984)

2.36.140 Court seal.

The municipal court shall have a seal which shall be the vignette of George Washington, with the words "Seal of the Municipal Court of Black Diamond, State of Washington," surrounding the vignette.

(Ord. 296 § 15, 1984)

2.36.150 Removal of judge.

A municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office. Any vacancy in the municipal court due to death, disability or resignation of the municipal court judge shall be filled by the mayor, for the remainder of the unexpired term. The appointment shall be subject to confirmation by the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter and RCW Chapter 3.50 as amended by Chapter 258, Laws of 1984.

(Ord. 296 § 16, 1984)

2.36.160 Civil jury trials.

In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court; provided, that no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the court. The fee shall be apportioned among the requesting parties. Each juror shall receive ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060.

(Ord. 296 § 17, 1984)

2.36.170 Criminal process.

All criminal process issued by the municipal court shall be in the name of the state, and run throughout the state, and be directed to and served by the chief of police, marshal, or other police officer of any city, or to a sheriff in the state.

(Ord. 296 § 18, 1984)

HOME :: October 25, 2017

POSTED NOTICES AND MATERIAL

PUBLIC NOTICES



•**Public Hearing** NOTICE IS HEREBY GIVEN that the Black Diamond City Council will be conducting a public hearing on the proposed revenue sources for the 2018 budget increases in property tax levy. The hearing will take place on Thursday, November 9, 2017 at 7:00 p.m. at the Black Diamond City Council Chambers, 25510 Lawson Street, Black Diamond, WA. The purpose of the hearing is to hear public testimony on the above listed subject. Written comments may be submitted to the Clerk's office at 24301 Roberts Drive, PO Box 599, Black Diamond, WA, 98010 no later than 5:00 p.m. on November 9, 2017, otherwise they must be submitted at the hearing. Click [here](#) to view the material. *Posted 10/24/2017 (NEW)*

•**SEPA** NOTICE of SEPA Mitigated Determination of Non-Significance (MDNS) Provident Electric. File Number PLN17-0026. Posted 10/3/17. **(NEW)**

•**Notice** of Public Review and Comment Period for the Environmental Assessment for the John Henry No. 1 Mine WA-0007D Revision Application and Permit Renewal. Posted 9/22/17 **(NEW)**

•**Notice of Application** – CUP and Site Plan for Black Diamond Storage – PLN16-0044 and PLN16-0045. Posted 9/6/17. **(NEW)**

•**Notice of Application Site Plan Review** for **PLN17-0052**-Posted 9/6/17. **(NEW)**

•**Notice of Application for MPD Development Agreement Minor Amendment** **PLN17-0055, PLN17-0056**-Posted 8/22/17. **(NEW)**

•**Requests for Qualifications - Municipal Court Judge** - The City of Black Diamond is seeking Requests for Qualifications from well qualified attorneys interested in serving as Presiding Judge for the Black Diamond Municipal Court. For more information click [here](#) or contact Brenda L. Martinez at 360-886-5700. Proposals must be submitted by 4:00 p.m. on September 21, 2017. Posted 8/18/17 **(NEW)**

•**SEPA** Mitigated Determination of Non-Significance (MDNS) File Number PLN17-0035. Posted 8/14/17.

•**Notice of Application Site Plan Review** for **PLN17-0041**.

•**Notice of Application MPD Site Plan Minor Amendment** for **PLN17-0046**.

•**SEPA** Determination of Mitigated Non-significance (MDNS) File Number PLN17-0009. Posted 6/13/17.

•**NOTICE OF REVISED SEPA & MDNS, and PUBLIC HEARING** for PLN16-0057. Posted 5/26/17 **Staff Report for Public Hearing** Posted 6/13/17

•**Public Hearing** NOTICE IS HEREBY GIVEN that the Black Diamond City Council will be conducting a public hearing on the proposed 2018-2023 Six-Year Transportation Improvement Program. The hearing will take place on Thursday, June 1, 2017 at 7:00 p.m. at the Black Diamond City Council Chambers, 25510 Lawson Street, Black Diamond, WA. The purpose of the hearing is to hear public testimony on the above listed subject. Written comments may be submitted to the Clerk's office at 24301 Roberts Drive, PO Box 599, Black Diamond, WA, 98010 no later than 5:00 p.m. on June 1, 2017, otherwise they must be submitted at the hearing. Click [here](#) to view the document. *Posted 5/15/17*

•**Notice of Application Site Plan Review** for **PLN17-0023**- *Posted 4/25/17*

•**NOTICE OF PERMIT TECHNICIAN SUPERVISOR JOB OPPORTUNITY** - The City of Black Diamond is seeking qualified applicants for the position of Permit Technician Supervisor. This position performs a full range of duties to process permits and applications related to land use, construction and engineering activities within the City of Black Diamond. The City offers a monthly salary range of \$5,891 - \$6,962, with a comprehensive benefit package; this is a Teamsters Local 117 represented position. Application material must be received by 4:30 p.m. on May 9, 2017. Click [here](#) for application material. *Posted 4/21/17*

• **KING COUNTY DEPARTMENT OF ASSESSMENTS**-will be conducting residential property inspection for purpose of assessment and valuation of taxable properties. [Click here](#) for more information. *Posted 4/5/17*

•**Request for Proposals – Contracted City Attorney Services** - The City of Black Diamond invites interested individuals or firms to submit proposals for contracted City Attorney services. Proposals are due at City Hall by 4:00 p.m. on March 28, 2017. [Click here](#) for the complete RFP. *Posted 3-3-17*

•**Public Notice**-The City of Black Diamond will not be processing passport applications as of Monday, February 6, 2017 until further notice.

NOTICE OF APPLICATION- Preliminary Short Plat PLN16-0071. *Posted 1/5/17*

"REMINDER" - As the new year is quickly approaching the City would like to remind residents that no fireworks can be discharged in the City limits on New Year's Eve. In accordance with Black Diamond Municipal Code 8.04.100(B) "No common fireworks shall be discharged within the city except between the hours of nine a.m. and twelve midnight on the fourth day of July of each year."

SEPA Determination of Mitigated Non-significance (MDNS) File Number PLN16-0038.

•**NOTICE IS HEREBY GIVEN** that the City of Black Diamond has issued a SEPA threshold determination of Mitigated Non-Significance (MDNS) on September 27, 2016 pursuant to WAC 197-11-350. File No. **PLN16-0040** **Checklist: MDNS** *Posted 9/27/16*

•**Withdraw and reissue SEPA Determination of Mitigated Non-Significance (MDNS)**-File No. **PLN16-0031** *Posted 9/19/16*

•**Notice of Decision – PLN16-0002** – Black Diamond Elementary School Replacement Project. *Posted 8/15/16*

•**City Attorney David Linehan** [memo](#) regarding 07/07/16 Council Agenda Items- *Posted 7/11/16*

•**Carol Morris** [memo](#) regarding Proposed Changes to Council Rules - *Posted 6/30/16*

•**Interim City Attorney Yvonne Ward** [memo](#) regarding Committees under Resolution 16-1059 - *Posted 6/30/16*

•**Talmadge Fitzpatrick** [letter](#) regarding Council Rules of Procedure and Council Termination of Contract with Morris Law - *Posted 6/30/16*

•**Interim City Attorney Yvonne Ward** [Findings and Conclusions](#) re: Resolution 16-1059 - *Posted 6/30/16*

•**Notice of Decision – PLN16-0014** – Application to Alter the Villages MPD Preliminary Plat 2C. *Posted 7/11/16*

•**Notice of Application - PLN16-0014**- Application to Alter The Villages MPD Preliminary Plat 2C - *Posted 6/30/16*

•**Notice of Application - PLN16-0014**- Application to Alter The Villages MPD Preliminary Plat 2C - *Posted 6/15/16*

SEPA Determination of Mitigated Non-Significance (MDNS) - File No. **PLN15-0058** - *Posted 4/26/16*

•**Planning Commission Vacancy Notice** - The City of Black Diamond is seeking applicants for the Planning Commission to fill a vacancy due to a resignation. Position #7, term expires on December 31, 2017. Members are appointed by the Mayor and confirmed by the City Council. Any resident who resides in the community for at least one hundred eighty days each calendar year or who owns a business with a physical presence within the city of Black Diamond who is interested in serving the community on this important Commission are encouraged to submit an application to the City of Black Diamond, Attn: City Clerk, 24301 Roberts Drive, PO Box 599, Black Diamond, WA 98010. To be considered for this position applications need to be received by 4:00 p.m. on March 21, 2016. Interviews for this position will take place sometime between March 28-30, 2016. If you would like to know more about the Planning Commission please contact our Community Development Director, Barbara Kincaid at 360.886.5700 **PC Application** - *Posted 2/26/16*



As the new year is quickly approaching the City would like to remind residents that no fireworks can be discharged in the City limits on New Year's Eve. In accordance with Black Diamond Municipal Code 8.04.100(B) "No common fireworks shall be discharged within the city except between the hours of nine a.m. and twelve midnight on the fourth day of July of each year."

■ **Planning Commission Vacancy Notice** - The City of Black Diamond is seeking applicants for the Planning Commission to fill three vacancies. Position #1, term expires on December 31, 2018, Position #5, term expires on December 31, 2016, and Position #7, term expires on December 31, 2017. Members are appointed by the Mayor and confirmed by the City Council. Any resident or owner of a business in Black Diamond interested in serving the community on this important Commission is encouraged to submit an application to the City of Black Diamond, Attn: City Clerk, 24301 Roberts Drive, PO Box 599, Black Diamond, WA 98010. To be considered for this position applications need to be received by 4:00 p.m. on January 7, 2016. Interviews for this position will take place sometime between January 11-14, 2016. If you would like to know more about the Planning Commission please contact our Community Development Director, Barbara Kincaid at 360.886.5700 **PC Application** - Posted 12/11/15

■ **General Facilities Charge (GFC)** Attorney Memo - Posted 11/10/15

■ Due to low staffing levels Passport Services will be limited. Please call to check agent availability.

■ Determination of Non-significance (DNS) - File No. **PLN15-0019** - Posted 05-20-15

■ Determination of Non-significance (DNS) - File No. **PLN15-0017** - Posted 05-15-15

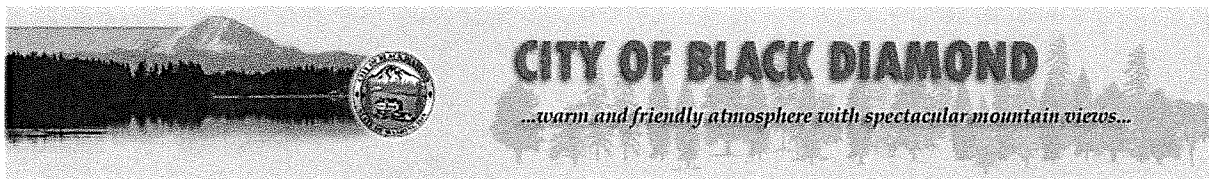
■ Growth Management Act (GMA) - Public Participation Plan - [Program Handbook](#) - Posted 02-13-15

■ The final decision on Villages Preliminary Plat Phase 2 Plat C has been corrected by the examiner since it was originally submitted to the City on January 27, 2015 at 11:56 AM, through January 28, 2015 at 9:47 AM, for the reasons identified in Footnote 1 to the corrected decision. All parties of record will be notified of the corrected decision. - **Notice of Decision, the Villages MPD PP2C - Final Corrected Decision** (Appendices have not been changed, please click on links below.) - Posted 1-28-15

■ MPD Noise Control Hotline number: (425) 898-2107 - Posted 10-28-13

■ **Non-Emergency Number - (360) 886-0022** - On September 16, 2013, a non-emergency number will be implemented to aid citizens in reporting incidents to police that are not urgent in nature. Valley Communications Center, King County E-911, and local law enforcement agencies are partnering to promote a non-emergency number in order to route calls appropriately and to allow 9-1-1 call-takers the opportunity to answer urgent and emergency calls. Black Diamond residents are encouraged to call (360) 886-0022 when you need the police, but it is not urgent in nature. For more information, please see the [flyer](#) - Posted 09-18-13

2017 - City of Black Diamond, City, Police, Court and Fire information. [Contact Us](#) - [Disclaimer](#).



Brenda Martinez

From: Brenda Martinez
Sent: Thursday, August 17, 2017 5:12 PM
To: 'VOICE of the'
Cc: Carol Benson
Subject: Legal Posting
Attachments: Municipal Judge WSBA NP.doc

Good evening!

Please post the attached document in the next edition of the paper.

Thank you,

Brenda L. Martinez, MMC | City Clerk / HR Manager
City of Black Diamond | www.ci.blackdiamond.wa.us
P: 360.886.5700 | F: 360.886.2592

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this e-mail account may be a public record. Accordingly, this e-mail, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

**CITY OF BLACK DIAMOND
REQUESTS FOR QUALIFICATIONS
MUNICIPAL COURT JUDGE**

The City of Black Diamond is seeking Requests for Qualifications from well qualified attorneys interested in serving as Presiding Judge for the Black Diamond Municipal Court. Minimum qualifications include JD degree from an accredited law school, license to practice law in the state of Washington, membership in the WA State Bar Association, and 8 years experience as a practicing attorney or judge. Experience as a court commissioner, municipal/district judge, or judge pro-tem preferred. For more information and to view the RFQ, visit www.ci.blackdiamond.wa.us or contact Brenda L. Martinez at 360-886-5700; email bmartinez@blackdiamondwa.gov. Proposals must be submitted by 4:00 p.m. on September 21, 2017.

Brenda Martinez

From: Brenda Martinez
Sent: Friday, August 18, 2017 3:52 PM
To: 'legals@djc.com'
Cc: Carol Benson
Subject: Legal Posting
Attachments: Municipal Judge WSBA NP.doc

Good afternoon,

Please publish the attached document in the August 22nd and 29th editions of the paper. Thank you.

If you have any questions please let me know.

Kind regards,

Brenda L. Martinez, MMC | City Clerk / HR Manager
City of Black Diamond | www.ci.blackdiamond.wa.us
P: 360.886.5700 | F: 360.886.2592

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Job information

[Return to search results](#)

Job information

Jurisdiction: City of Black Diamond

Job title: Municipal Court Judge

Employment type: Experienced

Posted on: 8/18/2017

Salary: Negotiated Contract

Close date: 9/21/2017

Close date description: N/A

Job description

The City of Black Diamond is seeking Requests for Qualifications from well qualified attorneys interested in serving as Presiding Judge for the Black Diamond Municipal Court. For more information and to view the RFQ visit www.ci.blackdiamond.wa.us and click "Public Notices" on the homepage. Proposals must be submitted by 4:00 p.m. on September 21, 2017.

Contact information

Name: Brenda L. Martinez

Phone: 360-886-5700

Fax: 360-886-2592

Email: bmartinez@blackdiamondwa.gov

URL: <http://www.ci.blackdiamond.wa.us>

Address: City of Black Diamond

PO Box 599/24301 Roberts Drive

Black Diamond, WA 98010

