

RESOLUTION NO. 15-1057

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A FLOOD
REDUCTION GRANT AGREEMENT WITH KING COUNTY
FOR THE DESIGN OF THE COVINGTON CREEK
CULVERT PROJECT

WHEREAS, the City has identified the need to replace the deteriorating corrugated metal culverts at Covington Creek in the City Capital Improvement Plan; and

WHEREAS, the City's grant application for King County Flood Reduction Grant Funds was selected for the design of the Covington Creek Culvert project in the amount of \$145,000; and

WHEREAS, the City has the staff and funds to complete the project; and

WHEREAS, an agreement with King County is required to establish the terms of funding the design of the Covington Creek Culvert project;

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 Flood Reduction Grant agreement with King County for the design of the Covington Creek Culvert project, substantially in the form attached hereto as Exhibit A.


PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 17TH DAY OF DECEMBER, 2015.

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

Attest:


Brenda L. Martinez, City Clerk

**AGREEMENT FOR AWARD OF
FLOOD REDUCTION GRANT FUNDS
BETWEEN THE TOWN OF BLACK DIAMOND AND KING COUNTY**

This Agreement is made between King County, a municipal corporation, and the Town of Black Diamond ("Recipient") (sometimes collectively referred to as the "parties" and in the singular "party"), for the purposes set forth herein. This Agreement shall be in effect from the date of execution to **December 31, 2016**.

Project Contacts:

King County – Kim Harper, Grant Administrator, 206-477-6079, Kim.harper@kingcounty.gov.

Recipient – Seth Boettcher, 360-886-5711, Sboettcher@ci.blackdiamond.wa.us.

SECTION 1. RECITALS

- 1.1 Whereas, the King County Flood Control District ("District") is a quasi-municipal corporation of the State of Washington, authorized to provide funding for flood control and stormwater protection projects and activities; and
- 1.2 Whereas King County is the service provider to the District under the terms of an interlocal agreement ("ILA") by and between King County and the District, dated February 17, 2009, as amended, and as service provider implements the District's annual work program and budget; and
- 1.3 Whereas, on November 12, 2013, the District's Board of Supervisors passed Resolution FCD2013-14.3 which established a Flood Reduction Grant Program and criteria for awarding grant funding for projects, and on November 3, 2014, the Board passed Resolution FCD2014-14-3, which authorized an allocation of \$2,883,634 from the District's 2015 budget to fund flood reduction projects; and
- 1.4 Whereas, on August 31, 2015 the District's Board of Supervisors passed Resolution FCD2015-10.1, which approved the flood reduction projects described in Attachment A to that Resolution; and
- 1.5 Whereas, in accordance with the terms of these Resolutions, and in its capacity as service provider to the District, King County has established policies and procedures for administering the flood reduction grant program, a copy of which has been furnished to Recipient and which is incorporated herein by this reference (hereinafter "Grant Policies and Procedures"); and
- 1.6 Whereas, the Recipient submitted an application to receive funds for a project to be funded by the Flood Reduction Grant Program; and
- 1.7 Whereas the District's Board of Supervisors approved funding of Recipient's application for the project, as described in Attachment A to Resolution FCD2015-10.1 ("Project") in

the amount of **\$145,000** (“Award”); and

- 1.8 Whereas King County has received a Scope of Work and a Budget for the Project from the Recipient and has determined that the Scope of Work, attached hereto and incorporated herein as Exhibit B (“Scope of Work”), and the Budget, attached hereto and incorporated herein as Exhibit C (“Budget”), are consistent with the Grant Policies and Procedures, the Recipient’s application for the Project, and the Resolution approving funding for the Project; and
- 1.9 Whereas, King County and the Recipient desire to enter into this Agreement for the purpose of establishing the terms and conditions under which King County will provide funding from the District in accordance with Resolution FCD2015-10.1, and the Grant Policies and Procedures, and under which the Recipient will implement the Project.

SECTION 2. AGREEMENT

- 2.1. The Recitals are an integral part of this Agreement and are incorporated herein by this reference.
- 2.2. King County agrees to pay the Award amount to Recipient in the total amount of **\$145,000** from District funds. The Award shall be used by the Recipient solely for the performance of the Project, as described in Exhibit A to this Agreement. Exhibit A, attached hereto and incorporated herein by this reference, contains a description of the Project as described in Attachment A to Resolution FCD2015-10.1. King County shall pay the Recipient in accordance with the terms of the Grant Policies and Procedures.
- 2.3. The Recipient represents and warrants that it will only use the Award for the Scope of Work of this Agreement and in accordance with the Project Budget. The Recipient shall be required to refund to King County that portion of the Award which is used for work or tasks not included in the Scope of Work. Further, the Recipient agrees that King County may retain any portion of the Award that is not expended or remains after completion of the Scope of Work and issuance of the Final Report, as further described below.
- 2.4. Activities carried out for this Project and expenses incurred by the Recipient may predate the execution date of this Agreement provided that 1) they have been identified by Recipient as being within the scopes of numbers 2) and 3) below, and have been approved by King County as being within such scopes; 2) the activities are specified in the Scope of Work of this Agreement; 3) the expenses are incurred in carrying out the Scope of Work and are authorized by the Award as identified in the Budget of this Agreement; 4) such activities and expenses otherwise comply with all other terms of this Agreement; and 5) reimbursements shall be paid to the Recipient only after this Agreement has been fully executed.
- 2.5. The Recipient shall invoice King County for incurred expenses using the Request for Payment form and Progress Report form for those documented and allowable expenses

identified in the Budget and according to the rules set forth in the Grant Policies and Procedures. Blank forms shall be provided to the Recipient by King County upon execution of this Agreement. A progress report (with or without a request for payment) shall be made no less frequently than every six months after the effective date of this Agreement nor more frequently than every three months after the aforementioned date. A one-time advance of no more than 25% of the Award amount may be allowed, in the discretion of King County, for expenses anticipated to be incurred in the three months following the date of submission of the advance Request for Payment only for work that is included in the Scope of Work of this Agreement, and identified as such in the Request for Payment. Documentation of payments made from the advance payment shall be submitted to King County prior to any further requests for payment. Twenty percent (20%) of the Award amount will be withheld by King County until receipt of the final Request for Payment, which shall be accompanied with a final report, as described in Section 2.6 of this Agreement.

- 2.6. The Recipient shall be required to submit to King County a final report which documents the Recipient's completion of the work in conformance with the terms of this Agreement within thirty (30) days after the completion of the work. The final report may be submitted at the same time as the Close-out Report form. A blank form shall be provided to the Recipient by King County upon execution of this Agreement. The final report shall include a summary of the Project's successes and shall address the flood reduction benefits accomplished by the work. .
- 2.7. The Recipient's expenditures of Award funds shall be separately identified in the Recipient's accounting records. If requested, the Recipient shall comply with other reasonable requests made by King County with respect to the manner in which Project expenditures are tracked and accounted for in the Recipient's accounting books and records. The Recipient shall maintain such records of expenditures as may be necessary to conform to generally accepted accounting principles as further described in Section 2.8 below, and to meet the requirements of all applicable state and federal laws.
- 2.8. The Recipient shall be required to track project expenses using the Budget Accounting and Reporting System for the State of Washington ("BARS") or Generally Accepted Accounting Principles set forth by the Financial Accounting Standards Board or by the Governmental Accounting Standards Board.
- 2.9. King County or its representative, and the District or its representative, shall have the right from time to time, at reasonable intervals, to audit the Recipient's books and records in order to verify compliance with the terms of this Agreement. The Recipient shall cooperate with King County and the District in any such audit.
- 2.10. The Recipient shall retain all accounting records and project files relating to this Agreement in accordance with criteria established by the Washington State Archivist Local Government Common Records Retention Schedule (CORE) as revised.

- 2.11. The Recipient shall ensure that all work performed by its employees, agents, contractors or subcontractors is performed in a manner which protects and safeguards the environment and natural resources and which is in compliance with local, state and federal laws and regulations. The Recipient shall implement an appropriate monitoring system or program to ensure compliance with this provision.
- 2.12. The Recipient agrees to indemnify, defend and hold harmless King County, and the District, their elected or appointed officials, employees and agents, from all claims, alleged liability, damages, losses to or death of person or damage to property arising out of any acts or omissions of the Recipient, its employees, agents, contractors or subcontractors in performing its obligations under the terms of this Agreement.
- 2.13. The Recipient agrees to acknowledge the District as a source of funding for the Project on all literature, signage or press releases related to the Project. The Recipient shall obtain from King County the specific language of acknowledgement and any District logo that may be used in the acknowledgement.

SECTION 3. GENERAL PROVISIONS

- 3.1. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
- 3.2. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No prior or contemporaneous representation, inducement, promise or agreement between or among the parties which relate to the subject matter hereof which are not embodied in this Agreement shall be of any force or effect.
- 3.3. No amendment to this Agreement shall be binding on any of the parties unless such amendment is in writing and is executed by the parties. The parties contemplate that this Agreement may from time to time be modified by written amendment which shall be executed by duly authorized representatives of the parties and attached to this Agreement.
- 3.4. Each party warrants and represents that such party has full and complete authority to enter into this Agreement and each person executing this Agreement on behalf of a party warrants and represents that he/she has been fully authorized to execute this Agreement on behalf of such party and that such party is bound by the signature of such representative.
- 3.5. The Project shall be completed by no later than **December 31, 2016**. In the event that the Project is not completed by this date, King County has the discretion, but not the obligation, to terminate this Agreement and retain any unexpended Award funds.
- 3.6. This Agreement may be signed in multiple counterparts.
- 3.7. If any provision of this Agreement shall be wholly or partially invalid or unenforceable under applicable law, such provision will be ineffective to that extent only, without in any

way affecting the remaining parts or provision of this Agreement, and the remaining provisions of this Agreement shall continue to be in effect.

- 3.8. The amount of the Award has been fully funded by the District. To the extent that funding of the Award requires future appropriations by the District, King County's obligations are contingent upon the appropriation of sufficient funds by the Board of Supervisors of the District to complete the Scope of Work. If no such appropriation is made, this Agreement will terminate at the close of the appropriation year for which the last appropriation that provides funds under this Agreement was made.

This document has been approved as to form by the King County Prosecuting Attorney's Office as of September 12, 2015.

KING COUNTY:

RECIPIENT:

By _____

By Carol Benson

Name _____

Name Carol Benson

Title _____

Title Mayor

Date _____

Date 12/18/15

EXHIBIT A: PROJECT DESCRIPTION

PROJECT NAME	RECIPIENT	DESCRIPTION	MATCH	AWARD
Lake Sawyer Road Culvert Replacement	Town of Black Diamond	Complete design, obtain permits, develop construction bid documents and select contractor to construct the replacement of three 5-foot diameter corrugated metal culverts 70 feet long under 224th Ave SE at Covington Creek in Black Diamond.	\$0	\$145,000

EXHIBIT B: SCOPE OF WORK

TASKS	ACTIVITIES AND DELIVERABLES	TOTAL SHARE OF AWARD FUNDS	DATES When is the task starting and ending?
Task 1 – Project Administration & Management	City staff will submit quarterly reports, submit quarterly requests for reimbursement and progress reports, keep grant records, submit closeout paperwork, including the final report. Select an engineering consultant, finalize and oversee the contract with the consultant, process bills/progress reports from engineer. Review engineering reports and make design decisions, ensure that the design efforts meet the city’s and resource agency needs. Advertise for construction bids, award bid, develop contract with construction contractor.	\$33,000	Sept 2015 - June 2016
Task 2 – Preliminary Design	Selected engineer under guidance of City staff and in consultations with resource agencies will determine the most cost effective method of conveying Covington Creek under the road that meets the city’s road and maintenance needs and best meets the needs of the environment.	\$17,000	Nov 2015 – Mar 2016
Task 3 – Environmental Review & Permits	Selected engineer will consult with resource agencies to determine necessary environmental objectives and outcomes and submit for the environmental review (SEPA Process). Engineer will apply and secure permits from the Washington Department of Fish and Wildlife and the Army Corp of Engineers if required.	\$15,000	Apr 2016 – July 2016
Task 4 – Final Design and Bid Documents	Selected engineer will design replacement culvert, prepare construction plans, specifications, and bid documents	\$80,000	Mar – June 2016
Permits/ permission	State all required project permits and authorizations: Hydraulic Permit approval from Washignton State Department of Fish and Wildlife; Potentially a permit from the Army Corp of Engineers		
Credits	<u>How, where and when</u> this grant will be acknowledged as funded by the King County Flood Control District: <ul style="list-style-type: none"> The City will post acknowledgement on the City’s capital project information webpage. The City will include mention of the FCD funding in correspondence, newsletter articles and local newspapers. 		

EXHIBIT C: BUDGET

BUDGET ITEM	TOTAL	GRANT AWARD SHARE	FINANCIAL MATCH (not required)			MATCH TOTAL
			SOURCE	SOURCE	SOURCE	
STAFFING	\$33,000	\$33,000				
COMMERCIAL SERVICES (Contractors, consultants, etc.)	\$112,000	\$112,000				
TOTAL	\$145,000	\$145,000				\$0