

RESOLUTION NO. 21-1423

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO ACCEPT GRANT FUNDS AND EXECUTE A GRANT AGREEMENT WITH THE PORT OF SEATTLE FOR ECONOMIC DEVELOPMENT

WHEREAS, engaging in the promotion of economic development is a recognized Port purpose under RCW 53.08.245; and

WHEREAS, RCW 35.21.703 similarly authorizes cities to engage in economic development programs and activities; and

WHEREAS, RCW 53.08.240(2) permits the Port of Seattle (“Port”) to contract with another municipality to perform economic development activity; and

WHEREAS, the Port Commission of the Port of Seattle established an Economic Development Partnership Program to advance and promote a dramatic growth agenda, support the creation of middle class jobs, and address the lack of economic development funding for local projects; and

WHEREAS, grant funding across the region is very limited for cities that want to pursue economic development projects or initiatives, and Washington State has not had an economic development grant program for over 20 years; and

WHEREAS, the Port’s partnership program will provide funding for up to 38 cities in King County to advance local economic development, subject to a 50% matching requirement by cities that receive grants under the program; and

WHEREAS, the Port’s partnership program provides grants to cities that pursue programs and projects that stimulate business development, job creation, and community revitalization, such as small business development, industry retention and expansion, and other projects that support new investment and job creation and retention; and

WHEREAS, the City has identified uses for grant funds that will fulfill the purposes of the Port’s Partnership Program—namely, the “activation” of a parcel of land on Railroad Avenue that was donated to the City in 2020, by creating a COVID-safe outdoor dining and seating space and amenities that will encourage residents and visitors to eat, shop, and explore the Historic Downtown district near the Black Diamond Museum and Black Diamond Bakery; and

WHEREAS, the award to the City of \$5,000 in Port Partnership Program funds will build on survey research funded by the Port’s grant in 2020, which showed that residents would like to see amenities that create an attractive business district in the Historic Downtown core; and

WHEREAS, the City will provide \$2,500 in matching funds for longer-term space planning efforts, including engineering and design work, based on feedback from the 2020 survey, which emphasized the desire to create a destination for shoppers, diners, and outdoor recreation tourists; and

WHEREAS, the City further intends to engage with local businesses to develop the proposed outdoor seating and dining space on the City-owned parcel to encourage commerce and tourist activity, and to measure how the space is used by community members and local merchants;

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

Section 1. The City Council hereby accepts the Port of Seattle Economic Development Partnership grant in the amount of \$5,000 to continue City efforts to activate a safe and appealing outdoor dining and seating area on the Railroad Avenue parcel donated to the City in 2020, with the City contributing an additional \$2,500 in matching funds for longer-term design, engineering, and planning work to enhance and measure business use, commercial activity, and tourism in the Historic Downtown core.

Section 2. The Mayor is authorized to execute an Economic Development Partnership Agreement with the Port of Seattle, in a form substantially similar to the agreement attached hereto.

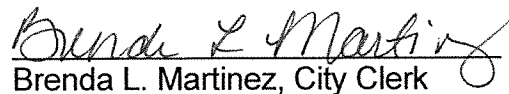
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3RD DAY OF JUNE, 2021.

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

Attest:



Brenda L. Martinez, City Clerk



ECONOMIC DEVELOPMENT PARTNERSHIP AGREEMENT

BETWEEN

THE PORT OF SEATTLE AND CITY OF BLACK DIAMOND

S-00320679

This Economic Development Partnership Agreement (the "Agreement") is made by and between the Port of Seattle (the "Port") and the City of Black Diamond ("Agency"), both municipal corporations of the State of Washington (each, a "Party" or, collectively, the "Parties").

RECITALS

WHEREAS, engaging in the promotion of economic development is a recognized Port purpose authorized under RCW 53.08.245; and

WHEREAS, RCW 35.21.703 similarly authorizes cities to engage in economic development programs; and

WHEREAS, RCW 53.08.240(2) permits the Port to contract with another municipality to perform such undertakings each is authorized to perform; and

WHEREAS, the Port Commission of the Port of Seattle established the Economic Development Partnership Program (the "Program"), to advance the Port's Century Agenda, promote a dramatic growth agenda, support the creation of middle class jobs and help address the lack of economic development funding for local projects; and

WHEREAS, grant funding across the region is very limited for cities that want to pursue economic development projects or initiatives, and Washington State has not had an economic development grant program for over 20 years; and

WHEREAS, the Program will provide 38 King County cities per capita funding to advance local economic development throughout the region, and requires a 50% local match by the cities that receive the grants; and

WHEREAS, the Program will help the Port advance regional economic vitality through focused partnerships with King County cities; and

WHEREAS, the Program will make grants to cities that pursue programs and projects that stimulate business development, job creation and community revitalization, such as small business development, industry retention and expansion, and other economic development projects that support new investment and job creation;

NOW, THEREFORE the parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish a contractual arrangement under which the Port will pay the Agency Program funds in the amount set forth on Section 2 solely for the purpose of carrying out the local initiative described in Exhibit A, attached and incorporated hereto by this reference (the "Project"). This Agreement shall be interpreted in furtherance of this purpose.
2. Responsibilities of the Port. The Port shall contribute Five Thousand and 00/100 Dollars (\$5,000.00) (the "Grant Funds") to assist the Agency in funding the Project. The Port shall disburse the Grant Funds to the Agency no later than thirty (30) days after receipt of a complete and correct invoice(s) detailing those Project deliverables completed in accordance with Exhibit A.
3. Responsibilities of the Agency.
 - 3.1 The Agency shall contribute local funds equivalent to at least fifty percent (50%) of the Grant Funds towards the Project.
 - 3.2 The Agency may contract with local non-profits to complete the Project or elements of the Project; *provided*, that the Port shall not, under any circumstance, disburse the Grant Funds to any of the Agency's contractors or subcontractors.
 - 3.3 The Agency shall complete the Project no later than December 31, 2021
 - 3.4 The Agency shall provide a complete and correct invoice(s) detailing those Project deliverables completed in accordance with Exhibit A no later than December 31, 2021
4. Term. This Agreement shall become effective as of the date the Port executes this Agreement and shall terminate on December 31, 2021, unless earlier terminated under another provision of this Agreement.
5. Termination for Convenience. The Port may terminate this Agreement at any time for any reason, by giving the Agency thirty (30) days' written notice. In the event the Agency has completed any portion of the Project by the time it receives the Port's notice of termination, the Port shall pay the Agency the percentage of the Grant Funds attributable to the Agency's completed portion of the Project.
6. Termination for Default. Except in the case of delay or failure resulting from circumstances beyond the control and without the fault or negligence of the Agency, the Port shall be entitled, by written or oral notice to the Agency, to terminate Agreement for breach of any of the terms and to have all other rights against the Agency by reason of the Agency's breach as provided by law.
7. Waiver. Failure at any time of the Port to enforce any provision of this Agreement shall not constitute a waiver of such provision or prejudice the right of the Port to enforce such provision at any subsequent time. No term or condition of this Agreement shall be held to be waived, modified or deleted except by a written amendment signed by the Parties
8. Partial Invalidity. If any provision of this Agreement is or becomes void or unenforceable by force or operation of law, all other provisions hereof shall remain valid and enforceable.
9. Indemnification and Hold Harmless Agreement. The Agency shall defend, indemnify, and hold harmless the Port, its Commissioners, officers, employees, and agents (hereafter, collectively, the "Port") from all liability, claims, damages, losses, and expenses (including, but not limited to attorneys' and consultants' fees and other expenses of litigation or arbitration) arising out of or related to the fulfillment of this Agreement; *provided*, however, if and to the

extent that this Agreement is construed to be relative to the construction, alternation, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving or demolition in connection therewith, and therefore subject to Section 4.24.115 of the Revised Code of Washington, it is agreed that where such liability, claim, damage, loss or expense arises from the concurrent negligence of (i) the Port, and (ii) the Agency, its agents, or its employees, it is expressly agreed that the Agency's obligations of indemnity under this paragraph shall be effective only to the extent of the Agency's negligence. Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any person or entity described in this paragraph. This paragraph shall not be construed so as to require the Agency to defend, indemnify, or hold harmless the Port from such claims, damages, losses or expenses caused by or resulting from the sole negligence of the Port.

In any and all claims against the Port, by any employee of the Agency, its agent, anyone directly or indirectly employed by either of them, or anyone for whose acts any of them may be liable, the indemnification obligation of this paragraph shall not be limited in any way by any limitation on the amount or type of damages compensation benefits payable by or for the Agency, or other person under applicable industrial insurance laws (including, but not limited to Title 51 of the Revised Code of Washington), it being clearly agreed and understood by the Parties hereto that the Agency expressly waives any immunity the Agency might have had under such laws. By executing this Agreement, the Agency acknowledges that the foregoing waiver has been mutually negotiated by the parties.

The Agency shall pay all attorneys' fees and expenses incurred by the Port in establishing and enforcing the Port's right under this paragraph, whether or not suit was instituted.

10. Comply with All Laws. The Agency shall at all times comply with all federal, state and local laws, ordinances and regulations, including but not limited to all environmental laws, which in any manner apply to the performance of this Agreement.

11. Integration. This Agreement, together with the attached Exhibit A, constitutes the entire agreement between the Parties and unless modified in writing by an amendment executed by the Parties, shall be implemented only as described herein.

12. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County.

13. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between the Agency and the Port.

14. No Entity Created. The Parties agree that nothing in this Agreement shall be construed to create a joint entity between the Agency and the Port.

15. Notices. Notices to the Port shall be sent to the following address:

Port of Seattle
Economic Development Division
P. O. Box 1209
Seattle, WA 98111

Notices to the Agency shall be sent to the following address:

City of Black Diamond
24301 Roberts Drive, PO Box 599
Black Diamond, Wa 98010

16. Audits and Retention of Records. The Agency in and make all books, records and documents (the "Records") relating to the performance of this Agreement open to inspection or audit by representatives of the Port or Washington State during the term of this Agreement and for a period of not less than six (6) years after termination of the Agreement; *provided*, that if any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated, the Agency shall retain such Records until the later of

(a) resolution or completion of litigation claim or audit; or (b) six (6) years after the termination of this Agreement.

17. Amendment. This Agreement may only be amended by written agreement of the Parties.

18. Dispute Resolution. The Parties shall use their best, good faith efforts to cooperatively resolve disputes that arise in connection with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the date first set forth above.

PORT OF SEATTLE

By: Suzanne Brown
Purchasing Manager

CITY OF BLACK DIAMOND

By: Carol Benson
Mayor



Signature

Signature

6/04/2021

Dated

Dated

EXHIBIT A

Black Diamond

Background:

1. **Project Description:** Summarize the project(s) you plan to implement and explain how project(s) address COVID-19 economic issues in your city. Include a brief description of the project goal(s) and summary of COVID-19 economic impacts being addressed.

The City of Black Diamond is looking to respond to COVID-19 by supporting businesses in the Historic Downtown district by temporarily "activating" a public parcel of land to create a safer outdoor dining area and add activities and amenities to encourage visitors to eat, shop, and explore the area.

The selected activations will be guided by consultation with local businesses through one-on-one outreach. Local businesses will also be informed of local services provided by the Green River SBDC including no-fee business consulting on retailing and marketing strategies aimed at attracting new families moving to the city.

The City was gifted a small parcel of property between the Black Diamond Museum and the historic Black Diamond Bakery. This temporary space activation builds on survey research, funded by the Port grant in 2020, showing residents would like to see amenities that create a business district in the Historic Downtown core. The City will utilize the grant funds to activate this space for outdoor seating and dining that is Covid-compliant. City match will go to longer-term space planning, including engineering and design work, based on feedback from the 2020 survey project.

2. **Brief Description Bullets:** Summarize the complete scope of work and goals briefly using 2 - 4 bullets. Please keep each bullet to 1 or 2 sentences. These bullets are meant to be a very brief synopsis the project(s) the Port of Seattle is funding in each city and may be used to describe each city's project(s) to the Port of Seattle Commission, to the public, and with local media.

The City of Black Diamond proposes:

- Encourage and invite local residents and tourists to explore the outdoors and support small businesses in the downtown core by creating a COVID-safe space "activation" with an outdoor seating area.
- Engage with local businesses to develop the outdoor space to encourage commerce, while encouraging businesses to work with the Green River SBDC.
- Measure space use with a local survey for local business owners and community members in the fall.

3. **Project Scope of Work:** Outline project title or components, economic impacts of COVID-19 the project is addressing, project goals, project deliverables, and metrics (measurable outcomes) using the table below. View Appendix B for sample metrics, measures of success, and data sources. The table is used in the agreement between the Port of Seattle and each city.

| Project title or component: | COVID-19 Economic Impacts: | Project goal(s): | Project deliverable(s) and estimated completion: | Metrics (measurable outcomes): |
|---|--|--|--|---|
| Historic Downtown COVID-19 Responses - outdoor space activation, business engagement, space long-term planning (city match) | Local businesses in the Historic Downtown have been negatively impacted by COVID-19. The pandemic exacerbated customer displacement challenges faced by the historic district as new commercial areas are being developed. | <ul style="list-style-type: none"> • Consult with local businesses on space activation and share information on Green River SBDC resources • Encourage local residents and tourists to safely explore, shop, and eat in the Historic Downtown by creating outdoor dining space and activities on public land next to businesses • Explore “activating” the Historic Downtown to help make it a destination for residents and outdoor recreation tourists with temporary “activations” and long-term planning including engineering design | <ul style="list-style-type: none"> • Purchase and add temporary, outdoor dining areas and space amenities • Summary of SBDC engagement and survey results shared in the 2021 Project Final Report • Engineering and/ or design deliverables to implement longer-term public amenities from 2020 survey (city match) | <ul style="list-style-type: none"> • Number of businesses engaged with SBDC information shared • Provide survey results in fall 2021 that measures space activation use. • Photographs of the changes (before and after) of the activated space. |

4. **Connection to Port of Seattle interests:** Explain how your project benefits the Port of Seattle and ties to the Port's business interests?

*Port business interests tie closely to the health of aviation, maritime/ logistics, manufacturing, and construction/ trades clusters. Tourism is another important industry to the Port of Seattle.

The Port of Seattle has an interest in the economic development and vitality of King County. This project will support local businesses that have been negatively impacted by COVID-19 in Black Diamond, thereby advancing the Port of Seattle's economic development of retaining and growing local businesses. As the Historic Downtown becomes a local tourism destination, the project also advances the development of the local tourism industry.

5. **Project Budget:** Identify each project budget category, total funds (including the monetary value of in-kind resources), Port of Seattle funds and City monetary and in-kind matching funds. Include the total funds from each column in the second to last row. Include the percentage contributions to the Port of Seattle's contribution in the last row. This table is used in the agreement between the Port of Seattle and each city.

| Project: | Project Category (Please select one of the categories provided) | Port of Seattle Funds Awarded: | City Monetary Matching Funds: | City In-kind Matching Funds: | Total Funds (Including In-Kind): |
|---|--|---------------------------------------|--------------------------------------|-------------------------------------|---|
| Historic Downtown COVID-19 Space Activation and business engagement | Small Business Assistance | \$5,000.00 | \$0 | \$0 | \$5,000.00 |
| Space design and engineering (city match) | Small Business Assistance | \$0 | \$2,500.00 | \$0 | \$2,500.00 |
| Total Funds: | | \$5,000.00 | \$2,500.00 | \$0 | \$7,500.00 |
| Percentage contribution to Port Funds*: | | 100% | 50% | 0% | |

6. **Collaboration with partners:** Please identify any community organizations (chamber of commerce, neighborhood associations, Small Business Development Centers, SCORE, Greater Seattle Partners, etc.) you plan to work with to complete all or part of your project(s)?

- Black Diamond Museum
- Downtown merchants
- Green River College Small Business Center
- Maple Valley/Black Diamond Chamber of Commerce

7. **Use of consultants or contractors:** If you plan to use consultants or contractors to complete all or part of the project, please identify the firm or type of firm you plan to hire for this project.

- Project will be managed by the City of Black Diamond.

Contact Information

City: City of Black Diamond

Federal Tax ID: 91-6016204

Address: City of Black Diamond
24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

Contact Name: Mona Davis
Title: Community Development Director
Telephone: 360 851-4528
Email: mdavis@blackdiamondwa.gov

Alternate Contact: Andy Williamson
Email: awilliamson@blackdiamondwa.gov
Phone: 360 851-4541