



CITY OF BLACK DIAMOND
January 20, 2011 Meeting Agenda
25510 Lawson St., Black Diamond, Washington

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

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-2560. Thank you for attending this evening.

**PUBLIC HEARINGS:
APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS**

Presentation – Relay for Life-American Cancer Society Dacia Roessler

UNFINISHED BUSINESS:

NEW BUSINESS:

- | | |
|--|---------------|
| 1) AB11-008 – Resolution Authorizing Work Crew Agreement | Judge Bowman |
| 2) AB11-009 – Resolution Authorizing TIB Agreement for Roberts Drive Sidewalk Project | Mr. Boettcher |
| 3) AB11-010 – Resolution Authorizing Agreement with Interactive Pipe Inspection | Mr. Boettcher |
| 4) AB11-011 – Ordinance Amending BDMC Regarding Official City Newspaper | Ms. Martinez |

DEPARTMENT REPORTS:

MAYOR’S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 5) **Claim Checks** – January 20, 2011, No. 36467 through No. 36523 in the amount of \$157,433.56
- 6) **Payroll** – December 31, 2010, No. 17322 through No. 17350 (voided No. 17325 through No. 17329, No. 17334, No. 17348) and ACH Pay in the total amount of \$275,043.48
- 7) **Minutes** –Council Meeting of January 6, 2011

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Resolution No. 11-732, authorizing the Mayor to enter into a contract with the Washington Department of Corrections for supervision of Work Crew.	Agenda Date: January 20, 2011		AB11-008
	Department/Committee/Individual	Created	Reviewed
	Mayor Rebecca Olness		
	City Administrator –		
	City Attorney –Chris Bacha		X
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Timeline:	Court – Stephanie Metcalf	X	
Cost Impact:	Comm. Dev. – Steve Pilcher		
Fund Source:	Attachments: Resolution No. 11-732 and Agreement		
SUMMARY STATEMENT:			
<p>Due to rising jail costs, the Black Diamond Municipal Court has been researching viable alternatives to jail which still hold the defendants accountable. Work Crew is an option that has been very successful in other jurisdictions.</p> <p>The Public Safety Committee and Court staff met with Jim Thorburn, Community Corrections Supervisor for the Department of Corrections on 10-20-10 to discuss their Work Crew program. The process would work as follows:</p> <ul style="list-style-type: none"> • The defendant is ordered by the court to complete Work Crew in lieu of jail. • Defendant would meet w/ court staff to be screened for Work Crew eligibility. The City will charge a one time \$25.00 fee for the screening and monitoring of the defendant on Work Crew. • Once approved, the offender would report to one of the various pick up locations in Federal Way or Kent at 7:30 a.m. and would be transported back to the location at the completion of their work day at 3:30 p.m. • The defendant would be providing labor for cleaning of litter and illegal dumping at various locations. The crew is supervised at all times by a uniformed DOC Corrections Officer. • Cost – DOC charges \$15.00 per day per defendant for Work Crew. Defendants would be required to prepay the Court prior to serving on Work Crew, unless they are determined to be indigent in which case the city may pay for the costs. The current cost to the City for housing a defendant in the Enumclaw or Buckley Jail is \$55.00 - \$57.00 per day. • DOC assumes all liability <p>Work Crew provides a viable option for the Court to hold offenders accountable in a meaningful way as an alternative to jail. It is easier to manage and track than community service and less expensive than jail. It would have a positive net effect on Court resources with a minimum investment of time.</p>			
COMMITTEE REVIEW AND RECOMMENDATION:			

RECOMMENDED ACTION: MOTION to adopt Resolution 11-732 authorizing the Mayor to execute an agreement between the Washington State Dept. of Corrections and the City of Black Diamond for Community Restitution Work Crew participation.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
January 20, 2011		

RESOLUTION NO. 11-732

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE AN
AGREEMENT WITH THE WASHINGTON STATE
DEPARTMENT OF CORRECTIONS**

WHEREAS, due to increasing jail costs the City of Black Diamond has been investigating other viable alternatives to jail; and

WHEREAS, Workcrew has been identified as a viable option and has been very successful in other jurisdictions; and

WHEREAS, the City desires to participate in the Workcrew program with the Washington State Department of Corrections; and

WHEREAS, the intent of this agreement is to provide Community Restitution crew participation as an alternative for the City of Black Diamond Municipal Court sentences/restitutions;

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

Section 1. The City Council hereby authorizes the Mayor to execute an agreement between the Washington State Department of Corrections and the City of Black Diamond for Community Restitution crew participation, 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 20TH DAY OF JANUARY, 2011.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

**MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF BLACK DIAMOND
AND
THE WASHINGTON STATE DEPARTMENT OF CORRECTIONS**

THIS MEMORANDUM OF AGREEMENT is entered into this 1st day of January, 2011. The parties ("Parties") to this Agreement are the City of Black Diamond ("CBD"), and the Washington State Department of Corrections ("DOC").

IT IS THE PURPOSE OF THIS AGREEMENT to provide Community Restitution crew participation as an alternative for the CBD Municipal Court sentences/sanctions.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK

The DOC and the CBD shall furnish the necessary personnel, equipment, material, and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Attachment "A", attached hereto and incorporated herein.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on January 1, 2011 through December 31, 2012, unless terminated sooner as provided herein. Such term may be extended by the mutual agreement of the parties. Any such extension shall be evidenced by a properly completed written amendment to this Agreement.

PAYMENT

DOC shall receive \$15.00 per day for any crew day completed by a CBD worker on the Seattle DOC WORKCREW or for any CBD crew worker that "walks-away," is injured or is dismissed from crew after 12:00 Noon on any workday. The cost of Industrial Insurance coverage for each CBD Community Restitution crew worker is included in the daily reimbursement amount for a crew worker.

BILLING PROCEDURE

The DOC shall submit monthly invoices to the CBD by the 25th of the month detailing the CBD crew worker hours worked and the worker daily rate. Payment to the DOC for approved and completed work will be made by warrant or account transfer by the CBD within 30 days of receipt of the invoice. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents, and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to

inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the Department of Corrections. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

INDEPENDENT CAPACITY

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

INDEMNIFICATION

DOC, its agents, or employees assumes responsibility for any damages resulting solely from the negligence of DOC, its agents, or employees. To the extent permitted by law, DOC shall be required to indemnify, defend, and hold harmless CBD only to the extent the claim is caused solely by the negligent acts or omissions of DOC, its agents, or employees.

CBD, its agents, or employees assumes responsibility for any damages resulting solely from the negligence of CBD, its agents, or employees. To the extent permitted by law, CBD shall be required to indemnify, defend, and hold harmless the DOC to the extent the claim is caused solely by the negligent acts or omissions of CBD, its agents, or employees.

In accordance with the laws of the state of Washington, if both parties to this agreement are negligent and jointly liable, each party will assume responsibility for its own negligent acts or omissions.

AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

TERMINATION

Either party may terminate this Agreement by giving the other party ten (10) working days written notification. 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.

In addition, DOC may terminate this Agreement upon written notification and without the ten-day notice required if DOC is unable to perform the services herein due to a policy or procedure change by the Secretary of DOC, a change in the law, or judgment of any court.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms, and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

PUBLIC INFORMATION

Neither party shall arrange for news media coverage relative to this Agreement that would specifically include offenders without the consent of the other party, nor shall either party release information to the news media relative to this Agreement concerning offenders without the consent of the other party to the extent allowed by law.

GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. Statement of Work; and

- c. Any other provisions of the agreement, including materials incorporated by reference.

ASSURANCES

The parties agree that all activity pursuant to this Agreement will be in accordance with all applicable current or future federal, state, and local laws, rules, and regulations.

ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

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, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end, the provisions of this Agreement are declared to be severable.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

CONTRACT MANAGEMENT

The Program Manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Program Manager for the Department is:

James T. 'Jim' Thorburn, Program Manager
Department of Corrections
851 Poplar Pl. S.
Seattle, WA 98144
Telephone: (206) 726-6719
E-Mail: james.thorburn@doc.wa.gov

The Program Manager for the CBD is:

Brenda L. Martinez, Assistant City Administrator/City Clerk
City of Black Diamond
PO Box 599
Black Diamond, WA 98010
Telephone: (360) 886-2560
E-Mail: bmartinez@ci.blackdiamond.wa.us

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF BLACK DIAMOND

STATE OF WASHINGTON
DEPARTMENT OF
CORRECTIONS

Date

Gary Banning, Administrator
Contracts and Legal Affairs

Date

THIS INTERAGENCY AGREEMENT HAS BEEN APPROVED
AS TO FORM BY THE OFFICE OF THE ATTORNEY GENERAL

ATTACHMENT A SCOPE OF WORK

The DOC provides:

1. Crew supervision for CBD crew workers that have been officially referred to the DOC Seattle WORKCREW program. Crews operate 7:30am – 3:30pm, 7 days a week, excluding posted state holidays, staff meetings, mandatory staff training or temporary layoffs. CBD crew workers may report for crew by 7:30am at any designated WORKCREW pick-up location. A maximum of 7 CBD crew workers may participate on DOC crews on any single crew day without additional authorization by the DOC WORKCREW Program Manager.
2. Project coordination, record keeping and reporting, as defined in this Agreement, under Records Maintenance, through a Community Corrections Program Manager with assistance from clerical staff.
3. Written documentation to the CBD within 48 hours of any incident in which a CBD crew worker was dismissed from a DOC Community Restitution crew for disciplinary or safety reasons, and will include a recommendation for the temporary or permanent dismissal of the crew worker from further work crew participation.

Note: DOC reserves the right to dismiss a CBD crew worker from a DOC Community Restitution work crew for disciplinary or safety reasons.

EQUIPMENT

4. Operating vehicles and shall maintain vehicles and equipment required to meet the scope of work.
5. Litterbags, and necessary tools, equipment and supplies to accomplish the scope of work.

TRAINING

6. Training for Community Restitution crew worker, as necessary, in the handling of illegally dumped materials, or pertaining to watershed plantings, removals or cleanups.
7. Training for Correctional Officers, as follows:
 - Personnel Orientation
 - CPR
 - First Aid/Infectious Disease Control
 - Flag Person Certification
 - Defensive Driving
 - Record Keeping
 - Safety Meetings
 - Incident Review
8. Training for CBD Community Restitution crew workers, as follows:

- Orientation to work crew
- Safety orientation – comprised of a standard orientation to sharps, public contact, seat belts, and related safety issues.

RECORD KEEPING AND REPORTING REQUIREMENTS

9. Records maintenance, detailing the daily participation of all CBD crew workers in Seattle Community Restitution crew activities. These shall be submitted to CBD on a monthly basis with the invoice, and shall include, but not be limited to the following:
 - Identify each CBD crew worker by name, CBD Court case number and dates worked.
 - Provide a total of CBD Community Restitution crew worker hours completed, supervisor hours and the daily Community Restitution crew worker rate.
10. Copies of any media reports, comments or written press reports regarding the work completed specific to this Agreement to the CBD.
11. The inspection and audit of all books and records of DOC which are pertinent to this Agreement, as the CBD deems necessary after the expiration or termination of this Agreement.

The CBD:

12. Provides the initial screening for all perspective CBD crew workers for any physical or mental health limitations that would restrict a Community Restitution crew worker from participating on a DOC Community Restitution crew in a safe manner.
13. Completes the DOC Referral (to include required criminal history information) and screening Questionnaire with the CBD crew worker, and insure that these documents have been received by DOC prior to the crew worker's first Community Restitution crew day.
14. Reimburses DOC within thirty (30) days of receipt of the monthly DOC Invoice, after review and approval of DOC Invoice expenses.

CBD Community Restitution Crew Workers:

Assist other Community Restitution crew workers in cleanups of litter and illegal dumping, vegetation cutting and/or removal, or other general labor as defined in the current Seattle DOC WORKCREW contract obligations or as requested and approved by the Program Manager.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Resolution No. 11-733, Grant Agreement with Transportation Improvement Board for the Roberts Drive Sidewalk Project	Agenda Date: January 20, 2011		AB11-009
	Department/Committee/Individual	Created	Reviewed
	Mayor Rebecca Olness		
	City Administrator –		
	City Attorney –Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher	X	
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Court – Stephanie Metcalf			
Comm. Dev. – Steve Pilcher			
Attachments: Resolution No. 11-733;Fuel Tax Agreement; map			
SUMMARY INFORMATION Black Diamond was selected for a sidewalk program grant. These grants are for sidewalk construction projects that will increase pedestrian safety. This project would create a sidewalk on the south side of Roberts Drive from Morgan Street to the King County Library. The City could allocate REET 2 funds left over from the Railroad Avenue project without affecting the Capital Improvement Plan (CIP). The additional revenue and additional 2011 project will be addressed in a mid-year budget amendment.			
COMMITTEE REVIEW AND RECOMMENDATION: Public Works Committee is recommending approval.			
RECOMMENDED ACTION: MOTION to adopt Resolution No. 11-733, authorizing the Mayor to execute the Fuel Tax Agreement for the Roberts Drive Sidewalk project TIB #P-P-800(P04)-1.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
January 20, 2011			

RESOLUTION NO. 11-733

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT WITH WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD FOR THE CONSTRUCTION OF A SIDEWALK ON ROBERTS DRIVE BETWEEN MORGAN STREET AND THE KING COUNTY LIBRARY

WHEREAS, the City's grant application for the Transportation Improvement Board Small City Sidewalk Program was selected for Roberts Drive in the amount of \$287,218; and

WHEREAS, the City has the staff and funds to complete the project in 2011; and

WHEREAS, a grant agreement (Fuel Tax Agreement) with Washington State Transportation Improvement Board is required to establish the terms of funding for the Roberts Drive Sidewalk project; and

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

Section 1. Authorizing the Mayor to execute the Fuel Tax Agreement for the Roberts Drive Sidewalk project TIB #P-P-800(P04)-1, 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 20TH DAY OF JANUARY, 2011.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk



Washington State Transportation Improvement Board
Fuel Tax Grant Distribution Agreement

LEAD AGENCY:	BLACK DIAMOND
PROJECT NUMBER:	P-P-800(P04)-1
PROJECT TITLE:	Roberts Drive
PROJECT TERMINI:	Morgan St to King Co. Library

DEC 13 2010

1.0 PURPOSE

The Washington State Transportation Improvement Board (hereinafter referred to as "TIB") hereby grants funds for the project specified in the attached documents, and as may be subsequently amended, subject to the terms contained herein. It is the intent of the parties, TIB and the grant recipient, that this Agreement shall govern the use and distribution of the grant funds through all phases of the project. Accordingly, the project specific information shall be contained in the attachments hereto and incorporated herein, as the project progresses through each phase.

This Agreement, together with the attachments hereto, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the parties and supercedes all previous written or oral agreements between the parties.

2.0 PARTIES TO AGREEMENT

The parties to this Agreement are TIB, or its successor, and the grant recipient, or its successor, as specified in the attachments.

3.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through completion of each phase of the project, unless terminated sooner as provided herein.

4.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

5.0 ASSIGNMENT

The grant recipient shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The grant recipient is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the grant recipient's other rights under this Agreement.

6.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.



Washington State Transportation Improvement Board
Fuel Tax Grant Distribution Agreement

7.0 TERMINATION

7.1 UNILATERAL TERMINATION

Either party may terminate this Agreement upon 30 days' prior written notice to the other party. 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.

7.2 TERMINATION BY MUTUAL AGREEMENT

Either party may terminate this contract in whole or in part, at any time, by mutual agreement with a 30 calendar day written notice from one party to the other.

7.3 TERMINATION FOR CAUSE

In the event TIB determines the grant recipient has failed to comply with the conditions of this Agreement in a timely manner, TIB has the right to suspend or terminate this Agreement. TIB shall notify the grant recipient in writing of the need to take corrective action. If corrective action is not taken within 30 days, the Agreement may be terminated. TIB reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the grant recipient from incurring additional obligations of funds during the investigation of the alleged compliance breach and pending corrective action by the grant recipient or a decision by TIB to terminate the Agreement. The grant recipient shall be liable for damages as authorized by law including, but not limited to, repayment of misused grant funds. The termination shall be deemed to be a Termination for Convenience if it is determined that the grant recipient: (1) was not at fault, or (2) failure to perform was outside of the grant recipient's control, fault or negligence. The rights and remedies of TIB provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.

7.4 TERMINATION FOR CONVENIENCE

TIB may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part, because federal or state funds are no longer available for the purpose of meeting TIB's obligations, or for any reason. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

7.5 TERMINATION PROCEDURE

Upon receipt of notice of termination, the grant recipient shall stop work and/or take such action as may be directed by TIB.



Washington State Transportation Improvement Board
Fuel Tax Grant Distribution Agreement

8.0 AVAILABILITY OF TIB FUNDS

The availability of Transportation Improvement Board funds is a function of Motor Vehicle Fuel Tax collections and existing contractual obligations. The local agency shall submit timely progress billings as project costs are incurred to enable accurate budgeting and fund management. Failure to submit timely progress billings may result in delayed payments or the establishment of a payment schedule.

9.0 ATTACHMENTS

Attachments are incorporated into this agreement with subsequent amendments as needed.

Approved as to Form
This 14th Day of February, 2003
Rob McKenna
Attorney General

By:

Signature on file

Elizabeth Lagerberg
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Rebecca Olness 12-9-10
Signature of Chairman/Mayor Date

Thomas G Ballard 12/16/2010
Executive Director Date

Rebecca Olness
Print Name

Thomas G Ballard
Print Name

Attachment 1

Pedestrian Safety and Mobility Program

Project Information

Lead Agency: City of Black Diamond

Project Number: P-P-800(P04)-1

Project Title: Roberts Drive

Project Termini: Morgan St to King Co. Library

TIB funds for the project are as follows:

Phase	TIB Funds
Design	63,843
Construction	223,375
Total Grant	<hr/> 287,218

Documents Required Prior to the Start of Design Work

- Consultant Agreement (TIB form 190-016 or DOT form 140-089)

Documents Required Prior to Advertising

- Bid Authorization Form
- Plans and Specifications package
- Final Engineer's Estimate

Documents Required at Bid Award Phase

- Bid Award Updated Cost Estimate Form
- Bid Tabulations
- Cost change justification

Documents Required at Contract Completion Phase

- Contract Completion Updated Cost Estimate Form
- Final Quantities and Ledger
- Cost change justification

Amendments to Agreement (if any)



Figure 2
ROBERTS DRIVE
SIDEWALK IMPROVEMENTS

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Contract for Consulting Services with Interactive Pipe Inspection for infiltration and inflow inspection services for the City's sewer system	Agenda Date: January 20, 2011		AB11-010
	Department/Committee/Individual	Created	Reviewed
	Mayor Rebecca Olness		
	City Administrator –		
	City Attorney –Chris Bacha		X
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher	X	
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact: \$0.	Court – Stephanie Metcalf		
Fund Source: No Cost Obligation	Comm. Dev. – Steve Pilcher		
Timeline: January/February 2011			
Attachments:Resolution No. 11-734; Consulting Services Contract; Proposal			
SUMMARY INFORMATION <p>Interactive Pipe Inspection is specialized in advanced technology applications for pipe inspections. Interactive Pipe Inspection would like to inspect the City's sewer manholes and mainlines to determine infiltration and inflow in the City's system. Interactive Pipe Inspection will not charge for this service but will use the results as part of a case study to present to other jurisdictions.</p> <p>The City will provide sewer maps and some labor (guidance, monitoring and traffic control) as part of the inspections. The City would like to isolate areas, manholes and sewer sections that have high infiltration and inflow. Interactive Pipe Inspection will provide, at no cost to the City, all inspections of the City's system.</p> <p>The digital photo inspection will provide a wealth of information on the City's sewer system. The inspection effort will require dedication of city staff to assist with the effort.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Public Works Committee has reviewed and recommends adoption.			
RECOMMENDED ACTION: MOTION to adopt Resolution No. 11-734, authorize the Mayor to execute the Consulting Services Contract for the infiltration and inflow inspection of the City's sewer system.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
January 20, 2011			

RESOLUTION NO. 11-734

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
RELATED AN AGREEMENT WITH INTERACTIVE PIPE
INSPECTION FOR INFILTRATION AND INFLOW
INSPECTION SERVICES OF THE CITY'S SEWER SYSTEM**

WHEREAS, King County treats the City's sewage at its Renton treatment facility; and

WHEREAS, the City is, geographically, the furthest city away of all cities with sewage treated at the Renton facility; and

WHEREAS, Interactive Pipe Inspection will inspect the City's sewer manholes to determine if there is any infiltration and inflow into the City's sewer system; and

WHEREAS, Interactive Pipe Inspection will not charge the City for the inspection services; and

WHEREAS, Interactive Pipe Inspection will provide the City all inspections and the necessary software for viewing the inspections; and

WHEREAS, finding the source of infiltration and inflow to the City's sewer system will potentially reduce sewer system costs for the City and sewage transportation costs for King County; and

WHEREAS, Interactive Pipe Inspection will use its findings from inspections in the City's system as a case study to present to other jurisdictions.

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

Section 1. Authorizing the Mayor to execute a no cost Consulting Services Agreement with Interactive Pipe Inspection for inspections services related to the City's sewer system, 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 20TH DAY OF JANUARY, 2011.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

CONTRACT FOR CONSULTING SERVICES

THIS AGREEMENT, made and entered into this ____ day of _____, 2011, by and between the **City of Black Diamond**, a municipal corporation of the State of Washington operating as a non-charter code city (hereinafter referred to as the "**City**"), and **Interactive Pipe Inspection**, (hereinafter called the "**Consultant**").

WHEREAS the Consultant is a corporation that specializes in advanced technology applications for pipe inspections, and

WHEREAS the Consultant desires to test its new SI Manhole Camera technology in the City's sewer system, and

WHEREAS the City desires to investigate infiltration and inflow within the City's sewer system, and

WHEREAS Consultant has proposed to offer its services to the City at no charge;

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

I. **Scope and Schedule of Work.**

- A. The Consultant agrees to perform those services as hereafter set forth and as described in Exhibit "A," attached hereto and incorporated herein by this reference.
- B. All obligations and services of the Consultant undertaken pursuant to this agreement shall be performed diligently and completely in accordance with professional standards of conduct and performance.
- C. The term of this agreement shall commence on January 18th, 2011. All work shall be satisfactorily completed not later than **March 31st, 2011**. The time period for performance may be extended by mutual written agreement of both parties.

II. **Compensation and Consideration.**

The Consultant shall provide the services performed under this agreement at no charge to the City. In consideration of the services provided by the Consultant, the City will provide the Consultant with access to its sewer system for the time period covered under this agreement. This agreement shall allow the Consultant to use the City's sewer system as a pilot case study to test its new technology and potentially use its findings for future marketing.

III. Scope of Work.

- A. The Consultant shall use an SI Manhole Camera to inspect and isolate infiltration and inflow in the City's sewer system and provide the city with the inspection digital data, reports and the means to view and utilize the inspection data.
- B. The Consultant may re-inspect sewer line(s) that the Consultant has previously isolated.
- C. The Consultant shall coordinate mutually agreeable time frames with the City for inspections so that the availability of City staff can be scheduled.
- D. The Consultant may work during the day and night during rain events. The Consultant shall coordinate manhole access with the City and provide three (3) days notice to the City prior to access any manholes.
- E. The Consultant shall provide safety cones and signs to aid in traffic control.

IV. Duties of the City.

- A. The City shall provide manhole maps to the Consultant.
- B. The City shall aid in traffic control flagging, staffing permitting.
- C. The City shall aid in developing a final project report. This may include, but is not limited to, providing City historical data. The City shall have the final approval on any information or reports published by the Consultant arising out of this agreement.

V. Rights in Data and Publications.

Data which is developed pursuant to this agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976, as amended, and shall be owned by the City. Pursuant to 17 U.S.C. § 201, the City will be deemed the author of the data and will own all copyrights in the data. "Data" shall mean all work product to be provided by the Consultant under this agreement and shall include, but not be limited to, draft and final reports, documents, pamphlets, advertisements, books, magazines, surveys studies, computer programs, films, tapes and/or sound reproductions. The Consultant shall obtain the City's written approval prior to the publication of any results of studies and/or services performed or to be performed for any purpose other than for City use.

VI. Contract Administration and Management.

- A. The Public Works Director or his or her designee shall have primary responsibility for administering and approving services to be performed by the

Consultant, and shall coordinate all communications between the Consultant and the City.

- B.** Any and all notices affecting or relative to this agreement shall be effective if in writing and delivered or mailed, postage prepaid, to the respective party being notified at the address listed with the signature of this agreement.
- C.** The Consultant, at such times and in such form as the City may require, shall furnish the City with periodic reports pertaining to the work and services undertaken pursuant to this agreement. The Consultant 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.
- D.** The Consultant shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.
- E.** The Consultant 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.

VII. Independent Contractor Status.

- A.** The Consultant is and shall be at all times during the term of this agreement an independent contractor, and not an employee of the City.
- B.** The Consultant acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this agreement, and the Consultant 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 Consultant's status as an independent contractor. If the City is assessed, liable or responsible in any manner for those charges or taxes, the Consultant agrees to hold the City harmless from those costs, including attorney's fees.
- C.** The Consultant shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this agreement, unless otherwise specified in writing.
- D.** The Consultant, at its expense, shall obtain and keep in force any and all necessary licenses.
- E.** 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.

VIII. Termination of Contract.

This Contract may be terminated by the City at any time for any reason. Consultant shall not be entitled to any reallocation of cost or overhead.

IX. Indemnification/Hold Harmless.

The Consultant 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 in connection with the performance of this agreement, except for injuries and damages caused by the sole negligence of the City.

X. Insurance.

The Consultant shall procure and maintain for the duration of the agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, their agents, representatives, employees or subcontractors. The City shall be named as an insured. Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. The Consultant shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Consultant's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Consultant, or the Consultant's agents, suppliers or contractors as well as to any temporary structures, scaffolding and protective fences.

XI. Non-discrimination.

The Consultant agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The Consultant shall not discriminate in any employment action because of race, creed, color, national origin, marital status, sex, age, or the presence of any sensory, mental or physical handicap. In the event of non-compliance by the Consultant with any of the non-discrimination provisions of this agreement, the City shall be deemed to have cause to terminate this agreement, in whole or in part.

XII. Conflict of Interest.

The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this agreement pertains which would conflict in any manner

or degree with the performance of the Consultant's services and obligations hereunder.

XIII. Interpretation and Venue.

- A.** Washington law shall govern the interpretation of this agreement. Pierce County shall be the venue of any arbitration or lawsuit arising out of this agreement.
- B.** If one or more of the clauses of this agreement is found to be unenforceable, illegal or contrary to public policy, the agreement will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.
- C.** This agreement constitutes the complete and final agreement of the parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made on the subject matter, and may be modified only by a writing signed by both parties.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first written above.

CITY OF Black Diamond

INTERACTIVE PIPE INSPECTION

Rebecca Olness, Mayor

Dennis Smith, President

24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

855 Trosper Road SW 108-206
Tumwater, WA 98512

Approved as to form:

Kenyon Disend, PLLC, City Attorney

EXHIBIT "A"

SCOPE AND SCHEDULE OF WORK

The scope of work consists of the following three phases:

Phase 1 – Marking of all 485 sewer manholes with green paint at the downstream inlet

Phase 2 – Inspection of manholes during wet/raining weather

Phase 3 – Manhole to manhole inspection

Phase 4 – Deliverables

Phase 1 – Marking of all 485 sewer manholes with green paint at the downstream inlet

- Work will be completed during dry weather and will require sewer maps provided by the City.
- Consultant will mark the manholes with some oversight and help from the City.
 - Consultant will verify which manholes are in easements or inaccessible.
 - Consultant will evaluate traffic patterns.
 - Consultant will verify that manhole lids can be opened.
- Consultant will be able to analyze the sewer basins and identify key manholes during this phase.

Phase 2 – Inspection of manholes during wet/raining weather

- This work will be completed during wet/raining weather.
- Consultant will complete the inspections using a new \$200,000 camera system.
- Consultant does not anticipate any lane closures.
 - Manhole inspections only take a few minutes.
 - City will provide a crew member for supervision and to assist with traffic control.
- Consultant anticipates a minimum of eight 8-hour shifts to complete the work.
 - Consultant should be able to inspect up to fifty manholes in an 8-hour shift.
 - Identified key manholes may be inspected to isolate an entire basin.
 - Some of the work may have to be completed at night.
- Temporary plugging of upstream manholes may be required.
 - Consultant is certified in Confined Space Entry.
 - Consultant will provide and utilize appropriate safety equipment for entering manholes.

Phase 3 – Manhole to manhole inspection

- Consultant will inspect lines manhole to manhole on an as-needed basis.
 - Inspection of lines from manhole to manhole will depend on if Consultant can isolate lines causing most of the inflow and infiltration.

Phase 4 – Deliverables

- Consultant will supply the software viewer and recordings of the manhole inspections and mainline (manhole to manhole) inspections.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
SUBJECT: Ordinance No. 11-958, amending Black Diamond Municipal Code Section 1.20.010 regarding official city newspaper	Agenda Date: January 20, 2011		AB11-011
	Department/Committee/Individual	Created	Reviewed
	Mayor Rebecca Olness		
	City Administrator –		
	City Attorney – Chris Bacha		X
	City Clerk – Brenda L. Martinez	X	
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police –		
Court –			
Cost Impact:			
Fund Source:			
Timeline:			
Attachments: Ordinance No. 11-958 markup and clean version, Resolution No. 10-724			
SUMMARY STATEMENT: On January 6, 2011 Council adopted Resolution No. 10-724, accepting the Covington/Maple Valley Reporter publication bid and designated it the official city newspaper for 2011. Adoption of this Ordinance would amend section 1.20.010 of the Black Diamond Municipal Code changing the official newspaper from the Voice of the Valley to the Covington/Maple Valley Reporter.			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 11-958, amending Black Diamond Municipal Code Section 1.20.010 regarding official city newspaper.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
January 20, 2011			

ORDINANCE NO. 11-000-958

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BLACK DIAMOND, KING COUNTY, WASHINGTON,
AMENDING BLACK DIAMOND MUNICIPAL CODE
SECTION 1.20.010 REGARDING DESIGNATION
OFFICIAL CITY NEWSPAPER

WHEREAS, the City Council designates the Maple Valley/Covington Reporter as the official City newspaper for publication purposes for the City of Black Diamond; now therefore

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Black Diamond Municipal Code Section 1.20.010 is hereby amended to read as follows:

Section 1.20.010. Designated. The Voice of the Valley Covington/Maple Valley Reporter shall be the official city newspaper.

Section 2. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication in summary form as provided by law.

Introduced this 20th day of January, 2011.

Passed by a majority of the City Council at a meeting held on the 20th day of January, 2011.

Mayor Rebecca Olness

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

Chris Bacha, City Attorney

Published: _____
Posted: _____
Effective Date: _____

ORDINANCE NO. 11-958

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING BLACK DIAMOND MUNICIPAL CODE SECTION 1.20.010 REGARDING DESIGNATION OFFICIAL CITY NEWSPAPER

WHEREAS, the City Council designates the Maple Valley/Covington Reporter as the official City newspaper for publication purposes for the City of Black Diamond; now therefore

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Black Diamond Municipal Code Section 1.20.010 is hereby amended to read as follows:

Section 1.20.010. Designated. The Covington/Maple Valley Reporter shall be the official city newspaper.

Section 2. This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication in summary form as provided by law.

Introduced this 20th day of January, 2011.

Passed by a majority of the City Council at a meeting held on the 20th day of January, 2011.

Mayor Rebecca Olness

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

Chris Bacha, City Attorney

Published: _____
Posted: _____
Effective Date: _____

RESOLUTION NO. 10-724

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
ACCEPTING COVINGTON/MAPLE VALLEY REPORTER
BID AND DESIGNATING IT AS THE 2011 OFFICIAL CITY
NEWSPAPER

WHEREAS, a request for bids was published November 16, 2010, and the City received two bids, one from the Voice of the Valley and the second from the Covington/Maple Valley Reporter; and

WHEREAS, it is the City's desire to accept the bid and designate the Covington/Maple Valley Reporter as the 2011 City's official newspaper;

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

Section 1. The Covington/Maple Valley Reporter publication bid is accepted.

Section 2. The Covington/Maple Valley Reporter is designated as the City's official newspaper for the purpose of required legal publications.

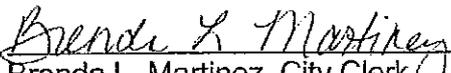
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 6TH DAY OF JANUARY, 2011.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:


Brenda L. Martinez, City Clerk