

RESOLUTION NO. 09-630

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE PURCHASE OF PROPERTY FOR
RIGHT-OF-WAY PURPOSES FOR THE RAILROAD
AVENUE STREET IMPROVEMENT PROJECT

WHEREAS, survey of the City right-of-way and surrounding property boundaries showed that Mrs. Parkin owned property into the existing roadway and alongside the existing roadway; and

WHEREAS, the City desires to widen and install street and storm improvements wider than the existing improvements; and

WHEREAS, the City and Mrs. Parkin have agreed on the amount of property to be purchased, the terms and price for the property; and

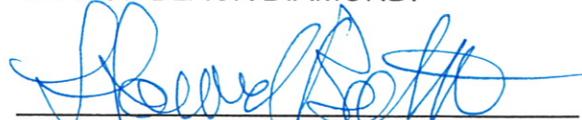
WHEREAS, the additional right-of-way is needed to complete the Railroad Avenue Street Improvement Project as currently planned and designed;

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

Section 1. The Mayor is authorized to execute the attached Purchase and Sale agreement in the amount of \$6000 in payment for the property plus title insurance, escrow, reconveyance fees, real estate excise tax and any offer evaluation costs according to the agreement.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 20TH DAY OF AUGUST, 2009.

CITY OF BLACK DIAMOND:


Howard Botts, Mayor

Attest:


Brenda L. Martinez, City Clerk

**PURCHASE AND SALE AGREEMENT
RIGHT OF WAY**

1. **Date and Parties.** THIS PURCHASE AND SALE AGREEMENT (“AGREEMENT”), is dated, for reference purposes only, the _____ day of July, 2009, and is made and entered into by and between Arlene T. Parkin (“Parkin”) and City of Black Diamond, a Washington municipal corporation (“City”).

2. **Property to be Conveyed.**

2.1 Parkin is the owner of the real estate legally described in Exhibit A attached hereto and identified as tax parcel no. 1421069102 (the “Property”).

2.2 The City wants to acquire a portion of the Property for right of way and utilities (“Right of Way”) for the Railroad Avenue Road Improvement Project (the “Project”). The portion of the Property to be acquired by the City for Right of Way is legally described and geographically depicted in Exhibit B attached hereto.

2.3 Parkin agrees to sell and convey and the City agrees to purchase and accept conveyance of the Right of Way on the terms and conditions set forth in this Agreement.

3. **Purchase Price.** As consideration for the conveyance of the Right of Way, the City shall pay Parkin the sum of \$6000.00 cash, payable at Closing. (“Closing” shall mean the closing of the transaction contemplated by this Agreement as provided in Paragraph 10). In addition, the City shall pay at Closing an additional amount not to exceed \$750.00 pursuant to RCW 8.25.020 for various expenditures actually and reasonably incurred by Parkin in the process of evaluating the City’s offer. Parkin acknowledges that she is receiving just compensation for the Right-of-Way.

4. **Legal Description.** The Parties hereby authorize the Closing Agent to insert, attach, or correct the legal description of the Property or Right-of-Way as required to consummate the conveyance thereof.

5. **Title.** Parkin shall convey title to the Right-of-Way by statutory warranty deed. Title to the Right-of-Way shall be free of all liens, encumbrances or defects, except as expressly approved by the City in writing. Encumbrances to be discharged by Parkin may be paid out of the Purchase Price at date of Closing.

6. **Title Insurance.** Fees for standard coverage owner's title insurance policies shall be paid by The City. The title policies to be issued shall contain no exceptions other than the usual general exceptions provided for in the specified title policy form, plus encumbrances or defects approved by the City in Paragraph 6 above. If title cannot be made



PARKIN



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so insurable by the date of Closing, The City may elect to terminate this Agreement, or may waive any such defects and elect to purchase as described herein.

7. **Included Items.** This transaction includes any landscaping, improvements and appurtenances, if any, on the Right-of-Way area.

8. **City Council Approval.** This Agreement is subject to ratification by the Black Diamond City Council. This matter shall be submitted to the City Council for ratification within thirty (30) days after signature by both parties.

9. **Closing.** Closing shall occur within 30 days after approval by the City Council, in the office of First American Title Insurance Company, Seattle, Washington, ("Closing Agent"), or such other place or location as the parties may mutually agree. The City and Parkin will, on demand, deposit in escrow all instructions and moneys necessary to complete the purchase in accordance with this Agreement. Closing shall be deemed to have occurred when all documents are recorded and the sale proceeds are available to Parkin.

10. **Closing Costs & Pro-Rated Items.** The City shall pay the escrow fee, reconveyance fees, any real estate excise tax due, and the recording fees. Parkin shall pay any real estate taxes due, if any.

11. **Possession.** The City shall be entitled to possession and use of the Right-of-Way at Closing.

12. **Environmental Representations and Warranties.** Parkin warrants that she has not caused or permitted the Property to be used as a site for generation, manufacture, refining, transportation, transfer, treatment, storage, handling, disposing or processing of hazardous substances, or other dangerous or toxic materials or solid waste except in compliance with applicable federal, state and local laws or regulations. Parkin has not caused or permitted and has no knowledge of the release of any hazardous substance on any of the Property at any time.

13. **Survival of Representations and Warranties.** All of the Parties' representations and warranties contained herein shall survive the Closing.

14. **Attorneys' Fees and Expenses.** In the event any Party brings a lawsuit to enforce or defend any rights herein, the prevailing party shall be awarded all costs and expenses and reasonable attorney fees.

15. **Successors and Assigns.** This Agreement and all of the terms and provisions set forth herein shall inure to the benefit of and be binding upon the Parties, their heirs, successors, legal representatives and assigns.



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16. **Further Acts.** In addition to the acts specifically required in this Agreement, the Parties agree to perform or cause to be performed at and after Closing any and all further acts as may be reasonably necessary to consummate the transaction described herein.

17. **Remedies.** Both parties acknowledge that specific performance of this Agreement is an appropriate remedy should either party fail to perform under the terms of the Agreement.

18. **Complete Agreement.** The Agreement and any addenda and exhibits to it state the entire understanding of Parkin and the City regarding this transaction. There are no verbal or written agreements which modify or affect the Agreement.

19. **Facsimile Transmission.** Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the escrow agent, the parties will confirm facsimile transmitted signatures by signing an original document.

PARKIN:


Arlene T. Parkin

THE CITY:

City of Black Diamond, Washington

By:


Howard Botts, Mayor

ATTEST:


Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
LEGAL DESCRIPTION--KING COUNTY TAX PARCEL NO. 1421069102

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, W. M. MORE PARTICULARLY KNOWN KING COUNTY TAX PARCEL NO. 142106-9102 AND DESCRIBED AS FOLLOWS;

THAT PORTION OF GOVERNMENT LOT 2, SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING AT THE MOST EASTERLY CORNER OF TRACT C, BLACK DIAMOND HOUSING PROJECT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 38 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON;
THENCE NORTH 63°23'50" WEST ALONG THE SOUTHWESTERLY LINE OF SAID TRACT C A DISTANCE OF 238.21 FEET;
THENCE SOUTH 26°44'00" WEST ALONG THE BOUNDARY OF SAID TRACT C A DISTANCE OF 50.25 FEET, TO AN ANGLE POINT IN SAID BOUNDARY AND THE TRUE POINT OF BEGINNING;
THENCE NORTH 63°11'03" WEST ALONG THE SOUTHERLY LINE OF SAID TRACT A DISTANCE OF 223.80 FEET;
THENCE SOUTH 43°00'14" WEST ALONG THE BOUNDARY OF SAID TRACT C A DISTANCE OF 131.35 FEET TO AN ANGLE POINT IN SAID BOUNDARY;
THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF "ABANDONED" PACIFIC COAST RAILROAD RIGHT-OF-WAY TO A POINT FROM WHICH THE TRUE POINT OF BEGINNING BEARS NORTH 26°44'00" EAST;
THENCE NORTH 26°44'00" EAST TO THE TRUE POINT OF BEGINNING;
TOGETHER WITH THAT PORTION OF ABANDONED PACIFIC COAST RAILROAD RIGHT-OF-WAY IN GOVERNMENT LOT 2, SAID SECTION 14, DESCRIBED AS FOLLOWS:
BEGINNING AT THE MOST EASTERLY CORNER OF TRACT C, BLACK DIAMOND HOUSING PROJECT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 38 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON;
THENCE NORTH 63°23'50" WEST ALONG THE SOUTHWESTERLY LINE OF SAID TRACT C A DISTANCE OF 238.21 FEET;
THENCE SOUTH 26°44'00" WEST ALONG THE BOUNDARY OF SAID TRACT C A DISTANCE OF 50.25 FEET;


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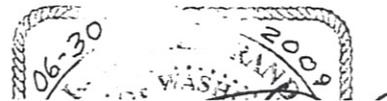
THENCE NORTH 63°11'03" WEST ALONG THE SOUTHERLY LINE OF SAID TRACT C
A DISTANCE OF 223.80 FEET;
THENCE SOUTH 43°00'14" WEST A DISTANCE OF 131.35 FEET TO A POINT OF
INTERSECTION WITH THE
NORTHEASTERLY MARGIN OF PACIFIC COAST RAILROAD RIGHT-OF-WAY AND
THE TRUE POINT OF BEGINNING;

EXHIBIT B
LEGAL DESCRIPTION
RIGHT OF WAY ACQUISITION

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M. DESCRIBED AS FOLLOWS:

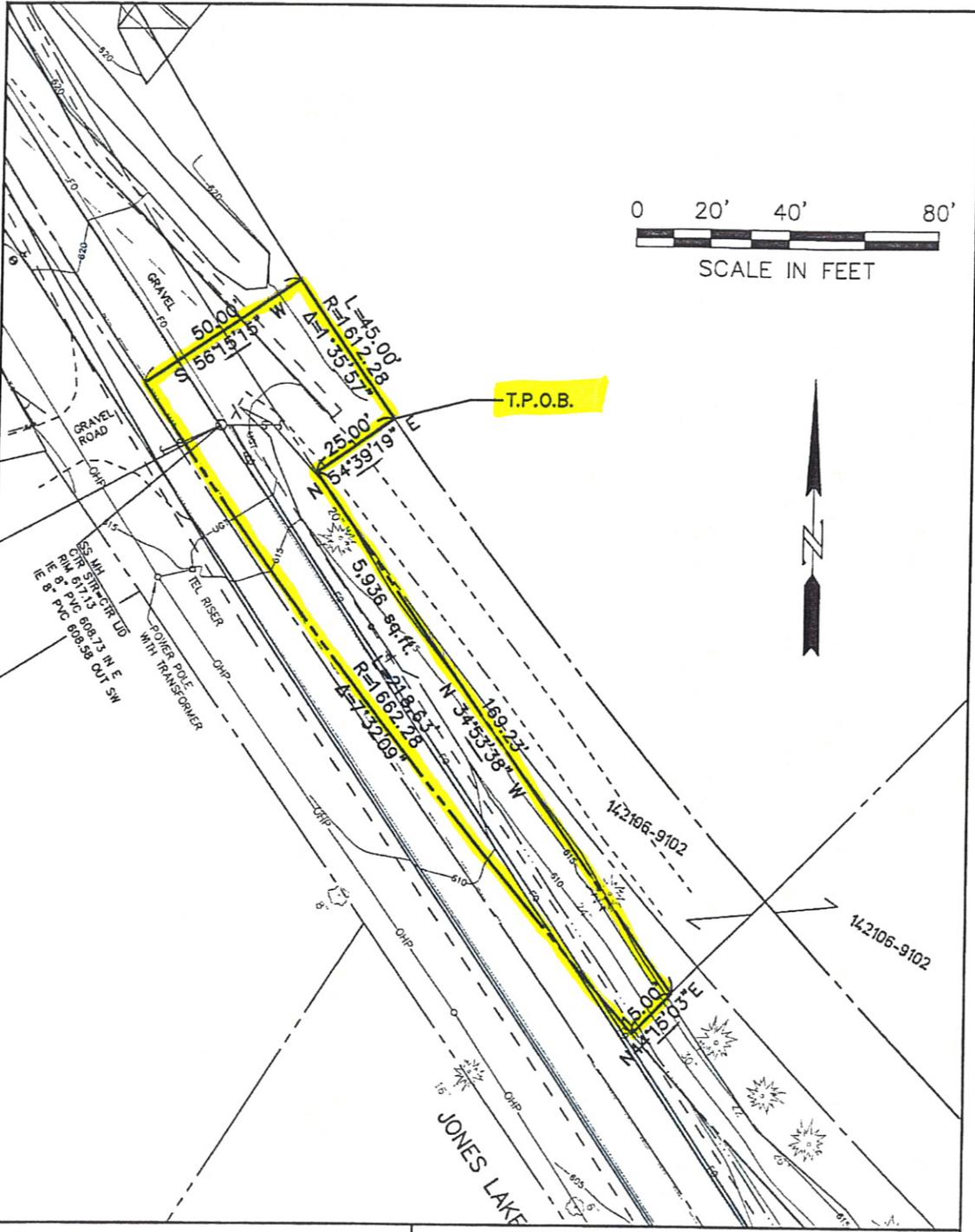
THAT PORTION OF ABANDONED PACIFIC COAST RAILROAD RIGHT-OF-WAY IN GOVERNMENT LOT 2, SAID SECTION 14, DESCRIBED AS FOLLOWS;
COMMENCING AT THE MOST EASTERLY CORNER OF TRACT C, BLACK DIAMOND HOUSING PROJECT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 38 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON;
THENCE NORTH 63°23'50" WEST ALONG THE SOUTHWESTERLY LINE OF SAID TRACT C A DISTANCE OF 238.21 FEET;
THENCE SOUTH 26°44'00" WEST ALONG THE BOUNDARY OF SAID TRACT C A DISTANCE OF 50.25 FEET;
THENCE NORTH 63°11'03" WEST ALONG THE SOUTHERLY LINE OF SAID TRACT C A DISTANCE OF 223.80 FEET;
THENCE SOUTH 43°00'14" WEST A DISTANCE OF 131.35 FEET TO A POINT OF INTERSECTION WITH THE NORTHEASTERLY MARGIN OF PACIFIC COAST RAILROAD RIGHT-OF-WAY BEING A CURVE HAVING A RADIUS OF 1612.28 FEET FROM WHICH THE CENTER BEARS NORTH 48°51'26" EAST;
THENCE NORTHWESTERLY ALONG THE SAID CURVE OF THE RIGHT OF WAY TO THE RIGHT THROUGH A CENTRAL ANGLE OF 5°47'52" A DISTANCE OF 163.15 FEET TO THE **TRUE POINT OF BEGINNING**;
THENCE CONTINUING ALONG THE CURVE OF THE SAID RIGHT OF WAY THROUGH A CENTRAL ANGLE OF 1°35'57" A DISTANCE OF 45.00 FEET;
THENCE ON A RADIAL BEARING OF SOUTH 56°15'15" WEST 50 FEET TO A POINT ON THE CURVE OF THE SOUTHWESTERLY RIGHT OF WAY HAVING A RADIUS OF 1662.28 FEET;
THENCE SOUTHEASTERLY ALONG THE CURVE OF THE SAID RIGHT OF WAY TO THE LEFT THROUGH A CENTRAL ANGLE OF 7°32'09" A DISTANCE OF 218.63 FEET;
THENCE NORTH 44°15'03" EAST A DISTANCE OF 15.00 FEET;
THENCE NORTH 34°53'38" WEST A DISTANCE OF 169.23 FEET;
THENCE NORTH 54°39'19" EAST A DISTANCE OF 25.00 FEET TO THE **TRUE POINT OF BEGINNING**;

CONTAINING 5,936 SQUARE FEET MORE OR LESS.




PARKIN


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HAMMOND COLLIER
WADE LIVINGSTONE



SEATTLE (206) 632-2664 WENATCHEE (509) 662-1762 OMAK (509) 826-5861 LAKEWOOD (253) 472-1992

EXHIBIT B
RIGHT OF WAY ACQUISITION
K. C. TAX PARCEL NO.142106-9102
CONTAINING 5,936 S.F. ±

CWP
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THE CITY



CITY OF BLACK DIAMOND

24310 Roberts Drive ~ PO Box 599
Black Diamond, WA 98010

Phone: (360) 886-2560
Fax: (360) 886-2592

COMMUNITY DEVELOP.

JUN - 1 2009

RECEIVED

May 15, 2009

Arlene Parkin
PO Box 74
32924 Railroad Avenue
Black Diamond, WA 98010

Dear Ms Parkin:

Thanks for your willingness to work with us on acquiring property from you to facilitate the Railroad Avenue Street project. In our meeting with several weeks ago you expressed that you would like to only sell the portion of your property that is needed for the street project and not the entire driveway parcel as was suggested in the offer letter that we delivered.

In keeping with your desires as we discussed when we met with you, we are offering by this letter to purchase the property outlined in blue in the attached exhibit. The highlighted blue portion of your driveway parcel is about 60% of the entire driveway parcel. We have tried to keep your compensation as close as we could to our original offer. We are now offering you \$6000 for the bank, ditch, roadway and utility portion of your property. If this offer is acceptable please sign the bottom of this letter as acceptance of the price for the property and we will have the rest of the legal descriptions and papers drawn up.

In any case, please let us know how you would like to proceed to settle the sale of the property for the Railroad Avenue project. Thank you for your civic spirit to help us spruce up the old downtown of Black Diamond.

Sincerely,

CITY OF BLACK DIAMOND

Howard Botts
Mayor