

November 10, 1998
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(SRB/sm)

Introduced by: KENT PULLEN

Proposed No.: 98-701

MOTION NO. **10608**

A MOTION authorizing the county executive to enter into an interlocal agreement with the city of Black Diamond relating to the county's processing of clearing and grading permit applications, permits and code enforcement actions.

WHEREAS, King County has experience and expertise relating to the processing of clearing and grading permit applications, permits and code enforcement actions, and

WHEREAS, the city of Black Diamond has requested that the county perform these duties on behalf of the city as the city's agent within the boundaries of the city, and

WHEREAS, an agreement relating to provision of these duties is authorized by the Interlocal Agreement Act, chapter 39.34 RCW;

NOW, THEREFORE, BE IT MOVED by the Council of King County:


The county executive is hereby authorized to execute an interlocal agreement,

10608.

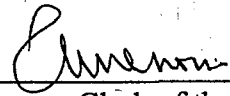
1 substantially in the form attached, with the city of Black Diamond for the county to process
2 clearing and grading permit applications, permits and code enforcement actions.

3 PASSED by a vote of 13 to 0 this 18th day of December,
4 1998.

5 KING COUNTY COUNCIL
6 KING COUNTY, WASHINGTON

7
8 
9 Chair

10 ATTEST:

11
12 
13 Clerk of the Council

14 Attachments: Interlocal Agreement between King County and the city of Black Diamond

12/15/98

INTERLOCAL AGREEMENT BETWEEN KING COUNTY AND THE CITY OF BLACK DIAMOND RELATING TO THE PROCESSING OF CLEARING AND GRADING PERMIT APPLICATIONS, PERMITS AND CODE ENFORCEMENT ACTIONS

THIS AGREEMENT is made and entered into by and between King County, a home rule charter County in the State of Washington (hereinafter referred to as the "County") and the City of Black Diamond, a municipal corporation in the State of Washington (hereinafter referred to as the "City").

WHEREAS the County has experience and expertise relating to the processing of clearing and grading permit applications, permits and code enforcement actions; and

WHEREAS the City has requested that the County perform these duties on behalf of the City as the City's agent within the boundaries of the City;

WHEREAS this Agreement is authorized by the Interlocal Agreement Act, RCW 39.34;

NOW, THEREFORE, in consideration of the terms and provisions herein, it is agreed by and between the City and County as follows:

1. Clearing and Grading Permits.

1.1. All applications for clearing and grading permits and all applications for renewals of clearing and grading permits filed with the City shall be processed by the County. In processing such applications, unless otherwise provided herein, the County shall review and approve, approve with conditions, or

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deny such applications on behalf of the City. Review shall be done pursuant to the applicable rules and regulations adopted by the City or to the rules and regulations under which the project is otherwise vested. Review shall include appropriate inspections.

1.2. Upon issuance of a clearing and grading permit, the County shall monitor the permitted site for compliance with any conditions of approval and any other applicable rules or regulations, shall issue any necessary correction notices, and shall make any necessary minor revisions or field changes to issued permits. If the County determines that a formal code enforcement proceeding should be initiated with regard to a permitted site, it shall recommend such action to the City. The City, with the assistance of the County if requested in writing with regard to a particular project, shall perform any necessary code enforcement according to the terms of Section 4 of this Agreement.

1.3 Any financial guarantees required for a clearing and grading permit shall be filed with, and processed, maintained and released by the City pursuant to the applicable rules and regulations adopted by the City or to the rules and regulations under which the project is otherwise vested.

1.4. When work under a permit is completed, the County shall perform a final inspection to ensure that any conditions of the permit and any other applicable rules or regulations have

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been met, and shall thereafter make a recommendation to the City as to whether the permit file should be closed and whether any bonds submitted under the permit should be released. If the City agrees with the recommendation, it shall be responsible for closing the file and releasing any bonds. If the City does not agree with the County's recommendation, it shall inform the County in writing of any additional steps it believes should be taken before the permit file is closed and before any bonds submitted under the permit are released. Thereafter, except as provided in Section 12.2, the County and the City shall repeat the recommendation and approval process outlined in this paragraph until the file is closed and any bonds are released.

2. SEPA Compliance.

2.1. In order to satisfy the procedural requirements of the State Environmental Policy Act ("SEPA"), the City shall serve as lead agency for all clearing and grading applications and permits identified in this Agreement. The City shall designate and identify a SEPA responsible official to make threshold determinations and to supervise the preparation and content of environmental review for projects within the City. The responsible official shall not be an employee, officer, or agent of the County.

2.2. All SEPA review shall be done pursuant to the applicable rules and regulations adopted by the City or to the rules and regulations under which the project is otherwise

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vested. Any and all appeals from SEPA threshold determinations and other SEPA matters relating to projects within the City shall be heard by the City.

2.3. For those permits requiring a SEPA determination, the County will not take final action upon the application until the City's responsible official has acted. Upon written request with regard to a particular project, the County agrees to provide technical and administrative SEPA assistance to the City's responsible official on that project. Such assistance may include, but is not limited to:

- * review of an applicant's environmental checklist and collection of relevant comments and facts;
- * preparation of a proposed SEPA threshold determination with supporting documentation for approval, publication and notice on behalf of the City's responsible official;
- * preparation and submittal of a written review and comment on any appeal received on a SEPA threshold determination recommended by County staff to the City's designated appeal hearings officer;
- * attendance at appeal hearings to testify with respect to analysis of environmental impacts, mitigation measures and the environmental review process; and
- * preparation of any required draft, final, addendum or supplemental EIS for approval of the City's responsible official.

2.4. In cases where an environmental impact statement is prepared for a project, the decision whether to condition or deny an application on SEPA grounds shall be made by the City.

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3. Other City Decisions.

3.1. The City shall process and decide all zoning issues including, but not limited to, zoning variance and/or exception requests that may be required prior to the approval of a clearing and grading permit application.

3.2. The City shall process and decide all non-zoning variance requests, including but not limited to applications for drainage or road standard variances, that may be required prior to the approval of a clearing and grading permit application.

Upon written request by the City with regard to a particular project, the County shall provide technical and administrative assistance to the City with regard to such a request.

4. Code Enforcement.

4.1. The City shall be responsible for performing any necessary formal code enforcement proceedings with regard to clearing and grading code violations that occur on permitted sites or unpermitted sites. The City shall do so according to the applicable City rules and regulations. Any administrative code enforcement appeal hearings shall be heard by the City.

4.2. Upon written request by the City with regard to a particular project, the County shall provide technical and administrative assistance to the City in performing code enforcement on that project. Such assistance may include, but is not necessarily limited to, investigating clearing and grading violations and recommending to the City when a code enforcement

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action should be initiated, issuing notices of violation, preparing staff reports for administrative code enforcement appeal hearings, and testifying at any such hearings. Such technical and administrative assistance shall not include the making of any discretionary decisions, such as whether to initiate a code enforcement action, whether to terminate a code enforcement action, whether to perform abatement, whether to collect civil penalties or other costs, and whether to file suit for civil code enforcement in a court of law.

4.3. With regard to permitted sites only, the County may pursuant to paragraph 1.2 of this Agreement and without a written request from the City, investigate clearing and grading violations and recommend to the City when a code enforcement action should be initiated.

5. Administrative And Ministerial Processing.

5.1. County actions specified in this Agreement are intended to be of an administrative and ministerial nature only. Any and all legislative or quasi-judicial decisions or decisions of a discretionary nature shall be made by the City and/or its designated decisionmaker.

6. Processing Priority. Within budgetary constraints, the County agrees to provide the services identified in this Agreement for properties in the City at the same level of service provided for properties in the unincorporated areas of the County.

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7. Fees.

7.1. All fees for the services to be provided by the County under this Agreement related to clearing and grading permits shall be paid by the applicant or other person owing such fees directly to the City in the amounts required by the City.

7.2. In order to cover the costs of performing such services, the City shall pay to the County the fees for such services that the County requires in its fee schedule as set forth in K.C.C. title 27 as currently adopted or hereafter amended. All such payments shall be made by the City to the County within thirty (30) days of the County's invoicing of those fees.

7.3. In order to cover the costs of providing technical and administrative assistance to the City related to code enforcement pursuant to this Agreement, the City shall pay the County the hourly fee for clearing and grading related activities set forth in K.C.C. ch. 27.12. All such payments shall be made by the City to the County within thirty (30) days of the County's invoicing of those fees.

8. Filing Documents. All documents that the County will review in the performance of the services identified in this Agreement shall be filed with the City, and the City shall within five (5) days transmit such documents to the County.

9. Application Process. The City in consultation with the County shall prepare and have available for applicants and other

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interested parties a document describing the handling of clearing and grading related activities under this Agreement.

10. Legal Representation. The services to be provided by the County pursuant to this Agreement do not include legal services, which shall be provided by the City at its own expense.

11. Indemnification.

11.1. In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the adoption, existence, validity or effect of City ordinances, policies, rules or regulations. If any cause, claim, suit, action, or administrative proceedings is commenced in which the enforceability and/or validity of any such City ordinance, policy, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorneys fees.

11.2. The County shall indemnify and hold harmless the City, its officers, agents or employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the County, its officers, agents or employees, or any of them, relating to or arising out of performing services pursuant to this Agreement. In the event

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that any such suit based upon such a claim, action, loss or damage is brought against the City, the County shall defend the same at its sole cost and expense; provided, that the City retains the right to participate in such suit if any principle of governmental or public law is involved. If final judgment be rendered in said suit against the City, its officers, agents or employees, or any of them, or jointly against the City and the County or their respective officers, agents or employees, or any of them, the County shall satisfy the same.

11.3. The City shall indemnify and hold harmless the County, its officers, agents or employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the City, its officers, agents or employees or any of them, relating to or arising out of performing services pursuant to this Agreement. In the event that any such suit based on such a claim, action, loss or damage is brought against the County, the City shall defend the same at its sole cost and expense; provided, that the County retains the right to participate in such suit if any principle of government or public law is involved. If final judgment be rendered in said suit against the County, its officers, agents or employees, or any of them, or jointly against the County and the City or their respective officers, agents or employees, or any of them, the City shall satisfy the same.

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11.4. If any claims, actions, suits, liability, loss, costs, expenses or damage are caused or result from the concurrent negligence of the City, its officers, agents or employees, or the County, its officers, agents or employees, this section shall be valid and enforceable only to the extent of the negligence of each party, its officers, agents or employees.

12. Administration.

12.1. This Agreement shall be administered by the Director of the King County Department of Development and Environmental Services or his/her designee, and by the City Administrator, or his/her designee.

12.2. If the County and the City disagree as to the course of action that should be taken with regard to a particular application, permit or site they shall negotiate in good faith to resolve the disagreement. If the County and the City cannot resolve the disagreement, either party may terminate in writing the County's involvement in that particular application, permit or site, in which case the termination shall be effective immediately, the County shall within fifteen (15) days of giving or receiving notice of termination transfer to the City all files and records and any unexpended portions of filings fees related to the particular application, permit or site, and the City shall within fifteen (15) days of giving or receiving notice of termination pay to the County all money due, and shall advise the affected applicant or other person that it has assumed all

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further processing responsibility with regard to the particular application, permit or site.

13. Term and Termination.

13.1. This Agreement shall be effective on the date last signed by the parties and shall renew automatically from year to year for a period of twenty years unless either party initiates the termination procedures outlined herein.

13.2. Either party shall have the right to terminate this Agreement at any time upon the giving of thirty (30) days written notice to the other of such cancellation.

13.3. Upon the termination of this Agreement, the County shall cease further processing and related review and enforcement functions with respect to clearing and grading. The County shall also within forty-five (45) days of giving or receiving notice of the termination of this Agreement transfer to the City the application, permit and code enforcement files and records in its possession along with any unexpended portions of filing fees for pending clearing and grading permit applications or clearing and grading permits.

13.4. Upon giving or receiving notice of the termination of this Agreement the City shall promptly advise the affected applicants or other persons that it has assumed all further processing responsibility with regard to clearing and grading, and shall within thirty (30) days pay to the County all money owed under this Agreement.

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14. Amendments. This Agreement is the complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded. Any modifications to this Agreement shall be in writing and signed by both parties.

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15. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based upon any provision set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

King County

Ron Sims
King County Executive

Dated

Approved as to Form

NORM MALENG
King County Prosecuting Attorney

By: _____
Deputy Prosecuting Attorney

Dated

City of Black Diamond

Howard Botts
Mayor, City of Black Diamond

Dated

Approved as to Form:

Black Diamond City Attorney

Dated