



**CITY OF BLACK DIAMOND**  
**October 2, 2008 Workstudy Agenda**  
25510 Lawson St., Black Diamond, Washington

**6:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL**

**1.) Continuation of 2009 Budget – Expenditure Overview – General Fund** Ms. Miller

**ADJOURNMENT:**



**CITY OF BLACK DIAMOND**  
**October 2, 2008 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 253-631-0351. Thank you for attending this evening.

**PUBLIC HEARINGS:**

1.) AB08-054g- Latecomer's Agreement

Mr. Boettcher

**APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS: None**

**UNFINISHED BUSINESS: None**

**NEW BUSINESS:**

2.) AB08-096- Resolution Authorizing Interlocal Agreement with King County-  
Fire Investigation Services

Mayor Botts

3.) AB08-097- Resolution Authorizing Modular Leases

Mr. Williamson

4.) AB08-098- Resolution Authorizing Brinks Security Service Agreements

Mr. Williamson

**DEPARTMENT REPORTS:**

**MAYOR'S REPORT:**

**COUNCIL REPORTS:**

**ATTORNEY REPORT:**

**PUBLIC COMMENTS:**

**CONSENT AGENDA:**

5.) **Minutes** – Council Meeting of September 18, 2008, Workstudy Notes of September 11<sup>th</sup> and September 18<sup>th</sup>, 2008.

6.) **Claim Checks**- October 2, 2008, No. 32317 through No. 32318; No. 32319 through No. 32348, (voided checks No.32316) in the amount of \$142,107.17.

**EXECUTIVE SESSION:** Potential Litigation

**ADJOURNMENT:**

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Public Hearing -</b> <b>Resolution No. 08-508, authorizing</b> <b>the Mayor to enter into a</b> <b>Latecomer's Agreement with</b> <b>Black Diamond Development, LLC</b>	<b>Agenda Date: October 2, 2008</b>		<b>AB08-054g</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Gwen Voelpel		
	City Attorney – Loren D. Combs	X	
	City Clerk – Brenda L. Streepy		
	Finance – May Miller		
	Public Works – Seth Boettcher		X
	Economic Devel. – Andy Williamson		
Cost Impact:	Police – Jamey Kiblinger		
Fund Source:	Court – Kaaren Woods		
Timeline:			
<b>Attachments: Resolution No. 08-508, Agreement, Exhibit's A, B, C, D, E</b>			
<b>SUMMARY STATEMENT:</b> This Public Hearing is to provide opportunity for the public and the developer to comment on the latecomer agreement. A Latecomer agreement provides a method for a City to provide a certain amount of fairness to a developer who has extended the public infrastructure to the benefit of others. <ul style="list-style-type: none"> <li>• Staff has reviewed Pace and City billing, the Fardig contractor billing and the miscellaneous charges to the project and reconciled those charges to documented costs. The recoverable cost has been reduced through the audit process.</li> <li>• Secondly, staff researched through the Municipal Research Services Center the typical ways that City's charge administration fees on latecomer agreements and found that the charges and methods vary widely and found that there was not a trend of common practice. Staff is recommending a reduction in the administration fees from 20% to 10% which is close to actual costs. In this agreement the administration fees are proposed to be deducted from the developer's proceeds.</li> </ul>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> Hear the testimony and if the proposed Latecomer Agreement seems to address the situation fairly the agreement could be approved after the hearing.			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 08-508, authorizing the Mayor to enter into a Latecomer's Agreement with Black Diamond Development, LLC.</b>			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
June 5, 2008	Public Hearing Continued to June 19 <sup>th</sup> Council Meeting		
June 19, 2008	Public Hearing Continued to July 17 <sup>th</sup> Council Meeting		
July 17, 2008	Public Hearing Continued to August 7 <sup>th</sup> Council Meeting		
August 7, 2008	Public Hearing Continued to August 21 <sup>st</sup> Council Meeting		
August 21, 2008	Public Hearing Continued to September 4 <sup>th</sup> Council Meeting		
September 4, 2008	Public Hearing Continued to September 18 <sup>th</sup> Council Meeting		
September 18, 2008	Public Hearing Continued to October 2 <sup>nd</sup> Council Meeting		
October 2, 2008			

RESOLUTION NO. 08-508

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE MAYOR TO ENTER INTO A  
LATECOMERS AGREEMENT WITH BLACK DIAMOND  
DEVELOPMENT, LLC

WHEREAS, Black Diamond Development, LLC (the “Developer”) has installed, at its own expense, improvements to the City’s water system consisting of installation of a 12” waterline in 3<sup>rd</sup> Avenue (the “Improvements”) from the southern boundary of parcel no. 1121069095 to the northern boundary of the Diamond Square property, parcel no. 1121069069; and

WHEREAS, pursuant to RCW 35.91.020, the Developer has requested that the City contract with it for reimbursement of a portion of the construction costs of the Improvements from properties that will benefit from the Improvements, to be paid to the City and remitted to the Developer at the time said properties connect to the city’s water system; and

WHEREAS, the Council finds that parcels with frontage on 3<sup>rd</sup> Avenue where the Improvements are located will benefit from the increased fire flow capacity of the 12-inch water line, except for property zoned R-9600; and

WHEREAS, the Council finds that the front footage method as calculated in Exhibit E of the Latecomer’s Agreement is a reasonable and fair method of calculating the pro-rata share of the costs of the Improvements; and

WHEREAS, the Council finds that the attached Latecomer’s Agreement would benefit the City of Black Diamond and is in compliance with RCW 35.91; now therefore

BE IT RESOLVED that the Mayor is authorized and directed to enter into the Latecomers Agreement attached hereto, and directs that the Agreement be recorded with the King County recorder’s office within 30 days from the date of this resolution.

ADOPTED by the City Council at an open public meeting held on the 2nd day of October, 2008.

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Streepy, City Clerk



**After Recording Return To:**  
City of Black Diamond  
P.O. Box 599  
Black Diamond, WA 98010

**WATER SYSTEM IMPROVEMENT COST  
REIMBURSEMENT AGREEMENT**

Date & Parties. This Agreement is dated the \_\_\_\_ date of \_\_\_\_\_, 2008, and is entered into by and between the City of Black Diamond, a Municipal corporation of the State of Washington, hereinafter referred to as the "City," and Black Diamond Development Company, LLC a Washington limited liability company, hereinafter referred to as the "Developer."

**GENERAL RECITALS**

- A. The City owns and operates a municipal water system (the "System").
- B. The Developer made certain improvements to the System ("Improvements") in order to provide water service for the Developer's development known as Diamond Square.
- C. The Improvements consist of installation of a 12" waterline in 3<sup>rd</sup> Avenue from the southern boundary of parcel no. 1121069095 to the northern boundary of the Diamond Square property, parcel no. 1121069069. The location of the Improvements can be identified in Exhibit D attached hereto and by reference incorporated herein.
- D. The Developer, pursuant to RCW 35.91.020, may contract with the City for reimbursement of a portion of the construction costs of the Improvements from Benefited Non-Contributing Properties, as defined below, to be paid to the City and remitted to the Developer at the time said properties connect to the System.

E. The City Council, by Resolution No. \_\_\_\_\_, has authorized the Mayor to execute this Agreement.

THEREFORE, in consideration of the mutual promises of the parties and other good and valuable consideration, the parties hereby agree as follows:

#### AGREEMENT

1. Cost of Construction. The cost of construction of the Improvements was Four Hundred Eighty Thousand Two Hundred Nineteen and 52/100 Dollars (\$480,219.52), including sales tax ("Cost of Construction"). An itemization of the Cost of Construction is set forth in Exhibit A attached hereto.

2. Benefited Contributing Properties. Those properties legally described in Exhibit B attached hereto, are owned by the Developer and are considered benefited contributing properties ("Benefited Contributing Properties") and thus will not be assessed reimbursement charges pursuant to the terms on this Agreement.

3. Benefited Non-Contributing Properties. The Benefited Non-Contributing Properties that are subject to reimbursement charges under this Agreement are set forth and legally described in Exhibit C attached hereto. A map of the Benefited Contributing Parties and Benefited Non-Contributing Parties is attached hereto as Exhibit D. The Benefited Non-Contributing Properties all have frontage on 3<sup>rd</sup> Avenue where the Improvements are located, and will benefit from the increased fire flow capacity of the 12-inch water line. Parcel No. 1121069085 is currently zoned R-9600, and shall be exempt from assessment under this Agreement so long as the zoning remains R-9600. The exemption shall be lifted upon any zoning change that increases the density or intensity of allowed uses.

4. Amount of Assessment. The amount of assessment against the Benefited Non-Contributing Properties that tap into or otherwise connect to the System after the date this Agreement is recorded shall be the amount set forth in Exhibit E. The first part of the assessment was calculated by multiplying the ratio of each parcel's frontage on 3<sup>rd</sup> Avenue where the new water line is located to the total length of such frontage of all Benefited Contributing and Noncontributing Properties, by 50% of the total Cost of Construction. The second part of the assessment was calculated by multiplying the ratio of each parcel's developable area to the total developable area of all Benefited Contributing and Noncontributing Properties, by 50% of the total Cost of Construction. The calculation of each assessment is set forth in Exhibit E. The total assessment per frontage foot is approximately \$51.12 and the total assessment per developable square foot is approximately \$0.07.

5. Administrative Costs. There shall be an administrative fee of ten percent (10%) of all Assessments collected by the City under this Agreement, charged to the Developer in order

to reimburse the City for its costs incurred in processing this Agreement and administering the terms thereof. The administrative fee shall be deducted from Assessments collected by the City prior to remittance to the Developer.

6. Collection and Reimbursement. The City shall collect, prior to allowing any Benefited Non-Contributing Property described in Exhibit C and D to connect to the System after the date of recording of this Agreement, in addition to all other applicable charges, the assessment amount set forth in Exhibit E, and shall remit the assessment amount, less the City's administrative fee, to the Developer or its designated successor within sixty (60) days after the receipt thereof.

7. Area Deduction. Prior to connecting to the System, the owner of a Benefited Non-Contributing Property may contest the developable area portion of the assessment on the basis that all or a portion of the property is not developable due to wetlands or other critical areas, by submitting a written notice to the City together with a wetland or critical areas report identifying the size and location of the undevelopable area, and a map of the undevelopable area prepared by a licensed surveyor. If the owner complies with the submission requirements, and establishes that a portion of the property is not developable under applicable laws and regulations, the City shall reduce the assessment for such property accordingly, and the City's costs of considering and processing the request, including attorneys fees, outside consultants fees, and staff time, shall be deducted from the assessment collected by the City prior to remittance to the Developer. Any reduction in assessment shall not change the assessment of other Benefited Non-Contributing Parties. If the owner contests the assessment but fails to establish that a portion of the property is not developable, the owner shall pay the City's costs of considering and processing the request, including attorneys fees, outside consultants fees, and staff time.

8. Termination of the Right to Reimbursement. The Developer's right to collect the sums to become due and owing under the terms of this Agreement shall terminate on the 18<sup>th</sup> of September, 2018, upon the Developer having been paid Three Hundred Ninety Nine Thousand Nine Hundred Thirty Eight and 88/100 Dollars (\$399,938.88), or upon the City having redesigned and reconstructed a part of the System so that the Improvements constructed by the Developer are rendered useless, whichever shall sooner occur.

9. Recording. The City Clerk shall record this Agreement with the King County Recorder's Office within 30 days from the date of this Agreement and may also record such other notices as are necessary to put owners of the Benefited Non-Contributing Properties on notice as to the assessments referred to herein.

10. Notices.

A. All notices to be sent to the Developer, including amounts collected under this Agreement, shall be sent to the Developer at the following address:

---

---

---

The Developer shall provide the City with current name, address, and telephone number every two years. If the Developer fails to comply with the notification requirements of this section within sixty days of the specified time, and the City is unable to locate the Developer, then the City may retain any reimbursement funds owed to the Developer under this Agreement. Such funds must be deposited in the City's capital fund.

B. All notices to be sent to the City shall be sent to the City at the following address:

Public Works Director  
City of Black Diamond  
P.O. Box 599  
24301 Roberts Drive  
Black Diamond, WA 98010

11. Covenant Running With the Land. This Agreement shall be binding on the City and the Developer and their respective successors, grantees and assignees and shall also be binding on the owners of the Benefited Non-Contributing Properties, their heirs, successors, grantees and assigns. This Agreement shall constitute a covenant running with all of the Benefited Non-Contributing Properties and the Benefited Contributing Properties; provided, however, that the Developer, upon giving written notice to the City, may assign its rights and delegate its duties under this Agreement to any person. In the event of such assignment, the assignee shall have all of the rights, duties and obligations of the Developer under this Agreement.

12. Indemnification and Hold Harmless. The Developer 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.

13. Severability. If any court or tribunal declares any provision of this Agreement to be invalid, the remaining provisions of this Agreement shall not be affected thereby. This Agreement, or any part hereof, if determined by law to be invalid, shall not waive any rights the

Developer has to reimbursement of the costs of construction of the Improvements to the extent provided for in this Agreement.

DATED as of the day and year first above written.

CITY

DEVELOPER:  
Black Diamond Development  
Company, LLC

By: \_\_\_\_\_  
Howard Botts, Mayor

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Brenda L. Streepy, City Clerk



## Exhibit A

### Itemization of Construction Cost

Description	Dollar Amount	Sales Tax	Total
Base Contract	\$ 299,825.83	\$ 25,185.37	\$ 325,011.20
Pipe Deflection	\$ 4,000.00	\$ 336.00	\$ 4,336.00
95.21 Tons Structural Fill	\$ 1,142.52	\$ 95.97	\$ 1,238.49
Extra Brush Removal	\$ 1,200.00	\$ 100.80	\$ 1,300.80
10 Water Services	\$ 13,000.00	\$ 1,092.00	\$ 14,092.00
Add on site valves	\$ 2,000.00	\$ 168.00	\$ 2,168.00
Additional water @ Bakery	\$ 1,062.50	\$ 89.25	\$ 1,151.75
Water Service @ Auto Parts	\$ 1,285.00	\$ 107.10	\$ 1,392.10
Phone Ped @ Trailer Park	\$ 1,700.00	\$ 142.80	\$ 1,842.80
Unmarked/unknown 2" steel conduit	\$ 850.00	\$ 71.40	\$ 921.40
Additional depth asphalt patch	\$ 4,158.32	\$ 349.30	\$ 4,507.62
Final Hook up of 1.5" tap	\$ 2,198.38	\$ 184.66	\$ 2,383.04
<b>Total</b>	<b>\$ 332,422.55</b>	<b>\$ 27,922.65</b>	<b>\$ 360,345.20</b>

EXHIBIT B

Benefited Contributing Property  
Legal Description

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., LYING WEST OF THE WESTERLY RIGHT-OF-WAY MARGIN OF THE BLACK DIAMOND-RENTON ROAD (SR 169); SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION SUBDIVISION;  
THENCE NORTH ON THE WEST LINE THEREOF, A DISTANCE OF 341.53 FEET;  
THENCE EAST ON A LINE, BEING AT RIGHT ANGLES TO SAID WEST LINE, A DISTANCE OF 757.62 FEET, MORE OR LESS, TO THE WEST RIGHT-OF-WAY LINE OF SAID BLACK DIAMOND-RENTON ROAD (SR 169);  
THENCE SOUTH 17° 32'50" EAST ON SAID RIGHT-OF-WAY LINE A DISTANCE OF 358.19 FEET TO THE INTERSECTION OF SAID LINE WITH THE SOUTH LINE OF SAID SECTION SUBDIVISION;  
THENCE WEST ON SAID SOUTH LINE A DISTANCE OF 865.61 FEET TO SAID POINT OF BEGINNING.

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON.

The Property or its address is commonly known as 30711 3RD AVENUE, BLACK DIAMOND, WA 98010. The Property tax identification number is 112106 9069.



Parcel No. 112106 9008:

- (a). The Southeast Quarter (SE $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington; EXCEPT portion in Primary State Highway No. 5; and
- (b). That portion of the south half (S $\frac{1}{2}$ ) of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, more particularly described as follows: Beginning at a point of intersection of the north line of the southwest quarter of above named Section 11, and the westerly line of Primary State Highway No. 5; thence south 89°54'35" west along said north line of said southwest quarter of Section 11, a distance of 418.35 feet; thence south 17°06' east a distance of 285.67 feet; thence north 72°52' east 400 feet more or less, to the westerly line of said primary State Highway No. 5; thence north 17°08' west along said westerly line of aforesaid Primary State Highway No. 5 to the point of beginning.

This Deed is executed and delivered in compliance with the terms and provisions of a certain Property Settlement Agreement of even date herewith, whereby and wherein the Grantor and Grantee herein, have settled and distributed between themselves all of their property, both real and personal.

Parcel No. 112106 9031:

Beginning at center of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, which point is an iron pin in the ground on East side of State Highway No. 169, and described as follows:

Thence South 80°24'00" West, a distance of 53.1 feet, more or less, to Westerly margin of State Highway No. 169, which point is 30 feet from center of said highway, is the Southeast corner of Tract "C" and also the true point of beginning;

Thence South 72°29'30" West, a distance of 400.00 feet, to Southwest corner of said tract;

Thence North 17°30'30" West, a distance of 200.00 feet to the Northwest corner of tract;

Thence North 72°29'30" East, a distance of 400 feet, more or less, to Westerly margin of Highway No. 169, and 30 feet from center of highway;

Thence South 17°30'30" East along the Westerly margin of State Highway No. 169, parallel to and 30 feet from center line for a distance of 200 feet, more or less, to the true point of beginning;

EXCEPT all coal and minerals and the right to explore for and mine the same as excluded in deeds recorded under Auditor's File No.'s 299084, 3337857 and 3852582;

Situate in the City of Black Diamond, County of King, State of Washington.

Parcel No. 112106 9053:

That portion of the South half of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, described as follows:

Beginning at the point of intersection of North line of the Southwest quarter of said Section 11 and the Westerly line of Primary State Highway No. 5;  
thence South  $89^{\circ}54'35''$  West along said North line 418.35 feet;  
thence South  $17^{\circ}08'00''$  East, a distance of 285.67 feet to the True Point of Beginning;  
thence North  $72^{\circ}52'00''$  East 400 feet, more or less, to the Westerly line of said Primary State Highway No. 5;  
thence North  $17^{\circ}08'00''$  West along said Westerly line of Primary State Highway No. 5, 151 feet to a point which bears South  $80^{\circ}24'00''$  West from the center of said Section;  
thence South  $72^{\circ}52'00''$  West 400 feet more or less to a point North  $17^{\circ}08'00''$  West from the True Point of Beginning;  
thence South  $17^{\circ}08'00''$  East to the True Point of Beginning.

**SUBJECT TO:**

~~Easement recorded under recording number 5707885.~~

Easement recorded under recording number 1726627.

Easement recorded under recording number 1629726.

Reservation recorded under recording number 299084.

Exceptions and Reservations recorded under recording number 3337857.

Exceptions and Reservations recorded under recording number 3852582.

Parcel No. 112106 9041:

That portion of the South half of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, more particularly described as follows:

Beginning at the point of intersection of the North line of the Southwest quarter of the above-named Section 11 and the Westerly line of Primary State Highway No. 5;  
THENCE South  $89^{\circ}54'35''$  West along said North Line of said Southwest Quarter of Section 11, a distance of 418.35 feet;  
THENCE South  $17^{\circ}08'$  East a distance of 285.67 feet to the True Point of Beginning;  
THENCE continuing South  $17^{\circ}08'$  East a distance of 200 feet;  
THENCE North  $72^{\circ}52'$  East 400 feet, more or less, to the Westerly line of said Primary State Highway No. 5;  
THENCE North  $17^{\circ}08'$  West along said Westerly Line 200 feet;  
THENCE South  $72^{\circ}52'$  West 400 feet, more or less, to the Point of Beginning.

SITUATE in the County of King, State of Washington.

Parcel No. 112106 9032:

That portion of the south half of Section 11, Township 21 North, Range 6 East, W.M., described as follows:

Beginning at a point of intersection of the north line of the southwest quarter of said Section 11 and the westerly line of Primary State Highway No. 5, thence south  $17^{\circ}8'$  east along said westerly line 363.12 feet to the true point of beginning; thence continuing south  $17^{\circ}8'$  east 120 feet; thence south  $72^{\circ}52'$  west 400 feet; thence north  $17^{\circ}8'$  west 120 feet; thence north  $72^{\circ}52'$  east 400 feet more or less to the true point of beginning. EXCEPT all coal and minerals and the right to explore for and mine the same, as excluded in Deed recorded under Recording No's. 299084 and 3852584.

Parcel No. 112106 9034:

Lot 1 of Black Diamond Short Plat Number 081-2-85, recorded under recording number 8504119001, being a subdivision of that portion of the S. 1/2 of Section 11, Twp. 21 N., Range 6 E. W.M., in King County, Washington, more particularly described as follows:

Beginning at the intersection of the N. line of the S.W. 1/4 of said section with the westerly boundary of primary State Highway No. 5 and running S. 17 degrees 08' E., a distance of 483.122 feet to the point of beginning;

Thence S. 17 degrees 08' East, a distance of 200 feet; thence S. 72 degrees 52' W., a distance of 400 feet; thence N. 17 degrees 08' W., a distance of 200 feet; and thence N. 72 degrees 52' E., a distance of 400 feet to the true point of beginning.

Parcel No. 112106 9095:

Lot 2, Black Diamond Short Plat No. 081-2-85 recorded under King County Recorder's File No. 8504119001, being a subdivision of that portion of the South Half of Section 11, Twp. 21 N. Range 6 E.W.M. more particularly described as follows:

Beginning at the intersection of the North Line of the S.W. 1/4 of said Section 11, with the westerly boundary of primary State Highway 5, and running thence South 17' 08' East a distance of 483.12 feet to the Point of Beginning; Thence South 17' 08' East a distance of 200 feet; Thence South 72' 52' West a distance of 400 feet; Thence North 17' 08' West a distance of 200 feet; Thence North 72' 52' East a distance of 400 feet; to the True Point of Beginning, TOGETHER WITH One 1983 56/14 Liberty Mobile Home attached thereto.

Parcel No. 112106 9050:

THE SOUTH 408.08 FEET OF THE NORTH 795.00 FEET OF THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING BETWEEN PRIMARY STATE HIGHWAY NO. 5, RENTON TO BLACK DIAMOND BRANCH, AS CONVEYED TO KING COUNTY BY KING COUNTY RECORDING NUMBER 1107064 AND BLACK DIAMOND-RAVENSDALE HIGHWAY, KING COUNTY SURVEY NO. 391 AS ESTABLISHED.

Parcel No. 112106 9028:

The South 287 feet of the North 387 feet of that portion of the Southeast quarter of Section 11, Township 21 North, Range 6 East, W.M., lying between Primary State Highway No. 5 and Black Diamond-Ravensdale Highway, County Survey No. 391, in King County, Washington

Parcel No. 112106 9047:

Real property in the County of King, State of Washington, described as follows:

That portion of the West half of the Southeast quarter in Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, lying between Primary State Highway No. 5 and County Road Survey No. 391, as established in King County Superior Court Cause No. 16966 and northerly of a line which is 100 feet South of and parallel with the North line of said Southeast quarter; and the South 254 feet in width of the Southwest quarter of the Northeast quarter of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, lying West of County Road No. 391, as established in King County Superior Court Cause No. 16956 (Ravensdale Road); Except that portion thereof lying within State Highway No. 5; and that portion of the South 254 feet of the Southeast quarter of the Northwest quarter of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, lying East of State Highway No. 5; Except that portion lying northerly of the following described line: Beginning at an iron pin in the center of Section 11; thence North 00°07'54" West along the subdivision line 253.40 feet to the true point of beginning of said line; thence South 76°23'50" West 50.68 feet to the easterly margin of State Highway No. 5.

Tax Parcel Number: 1121069047

Parcel No. 112106 9046:

PARCEL A

The south 854 00 feet of the southwest quarter of the northeast quarter of Section 11, Township 21 north, Range 6 east, W M , in King County, Washington  
Lying westerly of the westerly right of way line of Black Diamond-Ravensdale Road (County Road No 391),  
EXCEPT the south 254 00 feet thereof

PARCEL B

The west 600.00 feet of the south 330 00 feet of the northwest quarter of the northeast quarter of Section 11, Township 21 north, range 6 east, W M , in King County, Washington

PARCEL C

The west 600 00 feet of the southwest quarter of the northeast quarter of Section 11, Township 21 north, range 6 east, W M , in King County, Washington  
EXCEPT the south 854 00 feet thereof.

PARCEL D

That portion of the northwest quarter of Section 11, Township 21 north, Range 6 east, W M , in King County, Washington, described as follows

Beginning at an iron pin in the center of said Section 11,  
thence north  $0^{\circ}07'54''$  west, along the subdivision line of a distance of 253 40 feet to the TRUE POINT OF BEGINNING,  
thence south  $76^{\circ}23'50''$  west for a distance of 50 68 feet to a point which is at right angles to State Highway No 5 centerline, and lies 50 00 feet from said centerline;  
thence  $17^{\circ}32'50''$  west along said state highway right of way, 50 00 feet from center and parallel to centerline for a distance of 30 07 feet,  
thence north  $76^{\circ}23'50''$  east, for a distance of 59.95 feet, more or less, to intersect the north-south subdivision line of said Section 11,  
thence south  $0^{\circ}07'54''$  east, along said north-south subdivision line, for a distance of 30 85 feet, more or less, to the TRUE POINT OF BEGINNING.

EXCEPT portion lying within said state highway, if any

EXCEPTING from Parcels A, B, C, and D, any Mobile/Manufactured Home(s) located thereon

Parcel No. 112106 9091:

THAT PORTION OF THE SOUTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS.

BEGINNING AT AN IRON PIN IN THE CENTER OF SAID SECTION 11,

THENCE NORTH  $00^{\circ}07'54''$  WEST ALONG THE EAST LINE THEREOF 284.25 FEET TO THE TRUE POINT OF BEGINNING,

THENCE NORTH  $00^{\circ}07'54''$  WEST 343.45 FEET,

THENCE SOUTH  $89^{\circ}52'20''$  WEST 170.16 FEET TO THE MARGIN OF THE RIGHT-OF-WAY OF STATE HIGHWAY NO. 169,

THENCE SOUTHERLY ALONG SAID RIGHT-OF-WAY TO A POINT WHICH BEARS SOUTH  $76^{\circ}23'50''$  WEST FROM THE TRUE POINT OF BEGINNING,

THENCE NORTH  $76^{\circ}23'50''$  EAST TO THE TRUE POINT OF BEGINNING,

EXCEPT THEREFROM THAT PORTION CONTAINED IN THE DEED TO THE STATE OF WASHINGTON RECORDED AUGUST 2, 1936 UNDER RECORDING NO. 3006216,

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON.

Parcel No. 112106 9064:

The land referred to in this commitment is situated in the county of King, state of Washington, and described as follows:

That portion of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, described as follows:

Beginning at center of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, and which point is an iron pin in the ground;

thence north  $0^{\circ}07'40''$  west along the subdivision line and the center of section, a distance of 627.70 feet, and TRUE POINT OF BEGINNING;

thence south  $89^{\circ}52'20''$  west a distance of 170.16 feet to right-of-way of State Highway #169, and 50 feet from center when measured at right angles;

thence north  $17^{\circ}32'50''$  west along right-of-way parallel to center and 50 feet therefrom a distance of 104.81 feet;

thence north  $89^{\circ}52'20''$  east a distance of 201.69 feet to intersect the north-south center line of said section;

thence south  $0^{\circ}07'40''$  east along the said center line of Section 11, a distance of 100.00 feet and TRUE POINT OF BEGINNING.



Parcel No. 112106 9065:

THAT PORTION OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6, EAST, W.M., DESCRIBED AS:

BEGINNING AT THE CENTER OF SAID SECTION, WHICH IS AN IRON PIN IN THE GROUND;  
THENCE NORTH 00°07'40" WEST ALONG THE SUBDIVISION LINE AND THE CENTER OF SECTION,  
A DISTANCE OF 727.70 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 89°52'20" WEST FOR A DISTANCE OF 201.69 FEET TO THE RIGHT-OF-WAY OF  
STATE HIGHWAY #169 (BLACK DIAMOND-RENTON ROAD) AND 50 FEET FROM CENTER, WHEN  
MEASURED AT RIGHT ANGLES;  
THENCE NORTH 17°32'50" WEST, ALONG THE RIGHT-OF-WAY, PARALLEL WITH CENTER AND 50  
FEET THERE FROM, A DISTANCE OF 104.81 FEET;  
THENCE NORTH 89°52'20" EAST FOR A DISTANCE OF 233.06 FEET TO INTERSECT THE  
NORTH/SOUTH CENTER LINE OF SAID SECTION;  
THENCE SOUTH 00°07'40" EAST, ALONG THE SAID CENTER LINE OF SECTION 11, A DISTANCE OF  
100.00 FEET TO THE TRUE POINT OF BEGINNING;

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON.

Parcel No. 112106 9066:

AN UNDIVIDED ONE HALF INTEREST IN THE FOLLOWING:

A PARCEL OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING  
COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT CENTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.,  
IN KING COUNTY, WASHINGTON, AND WHICH POINT IS AN IRON PIN IN GROUND;  
THENCE NORTH 0°07'40" WEST ALONG SUBDIVISION LINE AND CENTER OF A SECTION,  
A DISTANCE OF 827.70 FEET AND THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 89°52'20" WEST FOR A DISTANCE OF 233.06 FEET TO RIGHT OF WAY  
OF STATE OF HIGHWAY NUMBER 169 AND 50 FEET FROM CENTER WHEN MEASURED AT  
RIGHT ANGLES;  
THENCE NORTH 17°32'50" WEST ALONG THE RIGHT OF WAY, PARALLEL TO CENTER AND  
50 FEET THEREFROM, A DISTANCE OF 104.81 FEET;  
THENCE NORTH 89°52'20" EAST FOR A DISTANCE OF 264.43 FEET TO INTERSECT THE  
NORTH-SOUTH CENTERLINE OF SAID SECTION;  
THENCE SOUTH 0°07'40" EAST ALONG THE SAID CENTERLINE OF SECTION 11, A  
DISTANCE OF 100.00 FEET AND THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

Parcel No. 112106 9062:

DESCRIPTION:

That portion of Section 11, Township 21 North, Range 6 East W.M., described as follows:

Beginning at the center of said section, which point is an iron pin on the ground;  
thence North  $00^{\circ}07'40''$  West along the subdivision line, a distance of 927.70 feet to the true point of beginning;  
thence South  $89^{\circ}52'20''$  West for a distance of 264.43 feet to right-of-way of State Highway, said point being 50 feet from center of said right-of-way, as measured at right angles;  
thence North  $17^{\circ}32'50''$  West, a distance of 104.81 feet along highway right-of-way and parallel to said highway center;  
thence North  $89^{\circ}52'20''$  East, a distance of 295.81 feet to the subdivision line;  
thence South  $00^{\circ}07'40''$  East, a distance of 100.00 feet and to the true point of beginning;

Situate in the City of Black Diamond, County of King, State of Washington.

Parcel No. 112106 9067:

The South 80 feet, as measured along the east line of Parcel C, Parcel C being a parcel in Section 11, Township 21 North, Range 6 East, W.M. in King County, Washington, described as follows:

Beginning at the center of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, which point is an iron pin in the ground;  
thence north  $0^{\circ}07'40''$  west along the subdivision line a distance of 1,027.70 feet and the TRUE POINT OF BEGINNING;  
thence south  $89^{\circ}52'20''$  west for a distance of 295.81 feet to the right-of-way of State Highway and 50 feet from the center as measured at right angles to said Highway;  
thence north  $17^{\circ}32'50''$  west along the right-of-way and parallel to said highway a distance of 99.38 feet;  
thence north  $89^{\circ}57'45''$  east a distance of 325.60 feet to a point on the subdivision line;  
thence south  $00^{\circ}07'40''$  east, a distance of 100.00 feet and to the TRUE POINT OF BEGINNING.

Parcel No. 112106 9054:

The North 20 feet of Parcel C: PARCEL C: Being a parcel in Section 11, Township 21 North, Range 6, East, W.M., in King County, Washington described as follows: Beginning at the center of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, which point is an iron pin in the ground; thence North  $0^{\circ}07'40''$  West along the subdivision line a distance of 1027.70 feet and the true point of beginning; thence South  $89^{\circ}52'20''$  East for a distance of 295.81 feet to the right of way of State Highway and 50 feet from center as measured at right angles to said Highway; thence North  $17^{\circ}32'50''$  West along the right of way and parallel to said Highway a distance of 99.38 feet; thence North  $88^{\circ}57'45''$  East a distance of 325.60 feet to a point on the subdivision line; thence South  $0^{\circ}07'40''$  East, a distance of 100.00 feet and to the true point of beginning;  
~~TOWNSHIP WITH ALL OF~~ Parcel D: Parcel D: Being a parcel in Section 11, Township 21 North, Range 6 East, W.M., King County, and described as follows: Beginning at the center of Section 11, Township 21 North, Range 6 East, W.M., which point is an iron pin in the ground; thence North  $0^{\circ}07'40''$  West for a distance of 1127.70 feet along the subdivision line to the true point of beginning; thence South  $88^{\circ}57'45''$  East for a distance of 325.60 feet to the right-of-way of State Highway and 50 feet from center line when measured at right angles to Highway; thence North  $17^{\circ}32'50''$  West along the Highway right of way for a distance of 104.28 feet and 50 feet from said highway centerline; thence North  $88^{\circ}57'45''$  East for a distance of 356.82 feet to a point on the subdivision line; thence South  $0^{\circ}07'40''$  East for a distance of 100.00 feet and the true point of beginning;  
situate in the Town of Black Diamond, County of King, State of Washington.

Parcel No. 112106 9070:

A parcel in Section 11, Township 21 North, Range 6 EWM, and described as follows: Beginning at the center of Sec. 11, Twp. 21 N, R 6 EWM, which point is marked by an iron stake in the ground; th. N  $0^{\circ}07'40''$  W a distance of 1327.70' to an iron pin and the true pt. of beg., which point is on a subdivision line; th. S  $89^{\circ}45'57''$  W a distance of 389.71' to the Ely right-of-way line of St. Hwy. No. 5, being 50' from center line of said Hwy; th. S  $17^{\circ}32'50''$  E along said Ely right-of-way line a distance of 110.00'; th. N  $88^{\circ}57'45''$  E a distance of 356.82' to the above mentioned line; th. N  $0^{\circ}07'40''$  W a distance of 100.00' to the true pt. of beginning. SUBJECT to matters of record, if any.

Parcel No. 112106 9052:

The land referred to in this commitment is situated in the county of King, state of Washington, and described as follows:

That portion of Section 11, Township 21 North, Range 6 East, W.M., in King County, Washington, described as follows:

Beginning at the center of Section 11, Township 21 North, Range 6, East, W.M., in King County, Washington, which point is an iron pin in the ground;

thence north  $0^{\circ}07'40''$  west for 1,327.70 feet along the subdivision line to an iron pin of the said subdivision and a  $1/16$ th corner;

thence south  $89^{\circ}45'57''$  west along the line for a distance of 200.00 feet, a point on the said subdivision and the TRUE POINT OF BEGINNING;

thence continuing on the same course south  $89^{\circ}45'57''$  west for 189.71 feet to a point on the easterly right-of-way of Secondary State Highway Number 169 and 50 feet easterly, as measured at right angles from the center of said Secondary State Highway Number 169;

thence south  $17^{\circ}32'50''$  east along the easterly right-of-way of the said Secondary State Highway Number 169, parallel and 50 feet from centerline for a distance of 78.71 feet to a point on the said right-of-way;

thence north  $88^{\circ}57'40''$  east of 166.20 feet;

thence north  $0^{\circ}07'40''$  west for a distance of 72.81 feet and the TRUE POINT OF BEGINNING.

Parcel No. 112106 9030:

S 5 ACS OF NE 1/4 OF NW 1/4 LY E OF BLACK DIAMOND RD LESS C/M RGTS & LESS N 282.48 FT MEAS ALG E LN

Parcel No. 112106 9060:

THE SOUTH 94.16 FEET OF THE NORTH 282 48 FEET, AS MEASURED ALONG THE EAST LINE OF THE SOUTH 5 ACRES OF THAT PORTION OF THE NORTHEAST  $1/4$  OF THE NORTHWEST  $1/4$  OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST W M., LYING EASTERLY OF PRIMARY STATE HIGHWAY NO. 5;

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON (Parcel No. 112106-9060)

Parcel No. 112106 9085:

**PARCEL A:**

THE NORTH 188.32 FEET, AS MEASURED ALONG THE EAST LINE OF THE SOUTH 5 ACRES OF THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EAST OF PRIMARY STATE HIGHWAY NO. 5 EXCEPT THAT PORTION OF THE ABOVE DESCRIBED PROPERTY WHICH IS HEREBY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHWEST CORNER OF THE ABOVE DESCRIBED PROPERTY; THENCE IN A SOUTHERLY DIRECTION ALONG THE WEST BOUNDARY OF THE ABOVE DESCRIBED PROPERTY 120 FEET; THENCE ON A EASTERLY LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF ALL OF THE ABOVE DESCRIBED PROPERTY 150 FEET, THENCE NORTHERLY IN A LINE PARALLEL WITH THE WEST BOUNDARY LINE 120 FEET; THENCE WEST ALONG THE NORTH BOUNDARY LINE 150 FEET TO THE POINT OF BEGINNING. (Parcel No. 112106-9085)





Exhibit E

**DIAMOND SQUARE LATECOMER AGREEMENT**

BASIC PARCEL INFORMATION			
PARCEL #	Area (SQ FT)	Existing Meter Size	Zoning (per 1981 Zoning Map)
112106 9069	277,041		Light Industrial / Commercial
112106 9008	1,363,863	n/a	Light Industrial / Commercial
112106 9031	80,150	3/4"	Community Commercial
112106 9053	60,548	n/a	Community Commercial
112106 9041	80,150	3/4"	Community Commercial
112106 9032	47,916	3/4"	Community Commercial
112106 9034	44,866	3/4"	Community Commercial
112106 9095	35,000	n/a	Community Commercial
112106 9050 *	157,251	n/a	Community Commercial
112106 9028	164,221	n/a	Community Commercial
112106 9047	242,193	3/4"	Community Commercial
112106 9046	919,987	4"	High Density Residential
112106 9091	43,995	n/a	Community Commercial
112106 9064	18,731	n/a	Community Commercial
112106 9065	21,780	n/a	Community Commercial
112106 9066	24,829	3/4"	Community Commercial
112106 9062	27,878	1	Community Commercial
112106 9067	24,829	3/4"	Community Commercial
112106 9054	40,946	3/4"	Community Commercial
112106 9070	23,900	3/4"	Community Commercial
112106 9052	13,503	3/4"	Community Commercial
112106 9030	71,438	3/4"	Community Commercial
112106 9060	46,174	n/a	Community Commercial
112106 9085	83,328	3/4"	Low Density Residential (EXEMPT)
<b>TOTAL</b>	<b>3,914,517</b>		

CALCULATED BENEFIT BASED ON 50% FRONT FOOTAGE + 50% DEVELOPABLE AREA (50' BUFFER FROM STREAM)						
Applicable Front Footage (LF)	% of Front Footage	50% Front Footage Benefit	Developable Area (SF)	% of Developable Area	50% Area Benefit	Total Calculated Benefit
341	7.26%	\$17,430.52	277,041	7.67%	\$ 18,412.47	\$35,842.99
1125	23.95%	\$57,505.38	1,363,863	37.75%	\$ 90,643.95	\$148,149.33
212.05	4.51%	\$10,839.13	80,150	2.22%	\$ 5,326.86	\$16,165.99
151	3.21%	\$7,718.50	60,548	1.68%	\$ 4,024.09	\$11,742.59
200	4.26%	\$10,223.18	80,150	2.22%	\$ 5,326.86	\$15,550.04
120	2.55%	\$6,133.91	47,916	1.33%	\$ 3,184.55	\$9,318.46
180	3.83%	\$9,200.86	44,866	1.24%	\$ 2,981.85	\$12,182.71
20	0.43%	\$1,022.32	35,000	0.97%	\$ 2,326.14	\$3,348.46
252	5.36%	\$12,881.21	82,329	2.28%	\$ 5,471.68	\$18,352.89
302	6.43%	\$15,437.00	124,711	3.45%	\$ 8,288.44	\$23,725.44
332	7.07%	\$16,970.48	195,747	5.42%	\$ 13,009.58	\$29,980.05
30.07	0.64%	\$1,537.05	779,130	21.57%	\$ 51,781.90	\$53,318.96
350	7.45%	\$17,890.56	43,995	1.22%	\$ 2,923.96	\$20,814.52
104.81	2.23%	\$5,357.46	18,731	0.52%	\$ 1,244.88	\$6,602.34
104.81	2.23%	\$5,357.46	21,780	0.60%	\$ 1,447.52	\$6,804.98
104.81	2.23%	\$5,357.46	24,829	0.69%	\$ 1,650.16	\$7,007.62
104.81	2.23%	\$5,357.46	27,878	0.77%	\$ 1,852.80	\$7,210.26
86	1.83%	\$4,395.97	24,829	0.69%	\$ 1,650.16	\$6,046.13
126	2.68%	\$6,440.60	40,946	1.13%	\$ 2,721.32	\$9,161.92
31.29	0.67%	\$1,599.42	23,900	0.66%	\$ 1,588.42	\$3,187.84
78.71	1.68%	\$4,023.33	13,503	0.37%	\$ 897.43	\$4,920.76
185	3.94%	\$9,456.44	71,438	1.98%	\$ 4,747.85	\$14,204.29
91	1.94%	\$4,651.55	46,174	1.28%	\$ 3,068.78	\$7,720.33
65	1.38%	\$3,322.53	83,328	2.31%	\$ 5,538.08	\$8,860.61
<b>4697.36</b>	<b>100.00%</b>	<b>\$240,109.76</b>	<b>3,612,782</b>	<b>100.00%</b>	<b>\$ 240,109.76</b>	<b>\$480,219.52</b>
<b>Cost per Front Foot</b>		<b>\$51.12</b>	<b>Cost per SF</b>		<b>\$0.07</b>	

Eligible Costs	
Fairdig Construction	\$360,345.20
PACE Engineers	\$118,078.00
Barghausen Consulting Engineers (Staking)	\$1,796.32
<b>TOTAL</b>	<b>\$480,219.52</b>

\* Note the applicable front footage for parcel 1121069050 is 252 feet. This is not the entire length of the parcel frontage along 3rd Avenue, but rather the footage along the frontage of the new waterline improvements.

\*\* Note that parcel areas are taken from King County Assessor's information. Adjusted lot areas to reflect 50' stream buffer and/or property depth are based off of measurements using GIS data and are for calculation purposes only.



# CITY OF BLACK DIAMOND

---

24301 Roberts Drive  
PO Box 599  
Black Diamond, WA 98010

Phone: (360) 886-2560  
Fax: (360) 886-2592  
[www.ci.blackdiamond.wa.us](http://www.ci.blackdiamond.wa.us)

September 11, 2008

Dear Property Owner:

The City staff has completed the review of the applicable cost submittals and has given consideration to the comments made at the last public hearing. Enclosed is the cost distribution recommended for the late comer agreement.

The cost distribution of the preferred alternative compromises between the benefit of the amount of developable area and the benefit of a water line across the frontage of a property. A 50 foot setback from the stream on the east side of this area was taken into account in this alternative as well.

The public hearing has been continued to September 18, 2008 at 7:00 p.m. in the Council Chambers located at 25510 Lawson Street.

If you have any questions or concerns, please contact Seth Boettcher at 360-886-2560 ext. 211 or via email at [sboettcher@ci.blackdiamond.wa.us](mailto:sboettcher@ci.blackdiamond.wa.us). Thank you.

Sincerely,

**CITY OF BLACK DIAMOND**

Seth Boettcher, PE  
Public Works Director



## DIAMOND SQUARE LATECOMER AGREEMENT

BASIC PARCEL INFORMATION			
PARCEL #	Area (SQ FT)	Existing Meter Size	Zoning (per 1981 Zoning Map)
112106 9069	277,041	n/a	Light Industrial / Commercial
112106 9008	1,363,863	n/a	Light Industrial / Commercial
112106 9031	80,150	3/4"	Community Commercial
112106 9053	60,548	n/a	Community Commercial
112106 9041	80,150	3/4"	Community Commercial
112106 9032	47,916	3/4"	Community Commercial
112106 9034	44,866	3/4"	Community Commercial
112106 9095	35,000	n/a	Community Commercial
112106 9050 *	157,251	n/a	Community Commercial
112106 9028	164,221	n/a	Community Commercial
112106 9047	242,193	3/4"	Community Commercial
112106 9046	919,987	4"	High Density Residential
112106 9091	43,995	n/a	Community Commercial
112106 9064	18,731	n/a	Community Commercial
112106 9065	21,780	n/a	Community Commercial
112106 9066	24,829	3/4"	Community Commercial
112106 9062	27,878	1	Community Commercial
112106 9067	24,829	3/4"	Community Commercial
112106 9064	40,946	3/4"	Community Commercial
112106 9070	23,900	3/4"	Community Commercial
112106 9052	13,503	3/4"	Community Commercial
112106 9030	71,438	3/4"	Community Commercial
112106 9060	46,174	n/a	Community Commercial
112106 9085	83,328	3/4"	Low Density Residential (EXEMPT)
<b>TOTAL</b>	<b>3,914,517</b>		

CALCULATED BENEFIT BASED ON 50% FRONT FOOTAGE + 50% DEVELOPABLE AREA (50' BUFFER FROM STREAM)						
Applicable Front Footage (LF)	% of Front Footage	50% Front Footage Benefit	Developable Area (SF)	% of Developable Area	50% Area Benefit	Total Calculated Benefit
341	7.26%	\$17,430.52	277,041	7.67%	\$ 18,412.47	\$35,842.99
1125	23.95%	\$57,505.38	1,363,863	37.75%	\$ 90,643.95	\$148,149.33
212.05	4.51%	\$10,839.13	80,150	2.22%	\$ 5,326.86	\$16,165.99
151	3.21%	\$7,718.50	60,548	1.68%	\$ 4,024.09	\$11,742.59
200	4.26%	\$10,223.18	80,150	2.22%	\$ 5,326.86	\$15,550.04
120	2.55%	\$6,133.91	47,916	1.33%	\$ 3,184.55	\$9,318.46
180	3.83%	\$9,200.86	44,866	1.24%	\$ 2,981.85	\$12,182.71
20	0.43%	\$1,022.32	35,000	0.97%	\$ 2,326.14	\$3,348.46
252	5.36%	\$12,881.21	82,329	2.28%	\$ 5,471.68	\$18,352.89
302	6.43%	\$15,437.00	124,711	3.45%	\$ 8,288.44	\$23,725.44
332	7.07%	\$16,970.48	195,747	5.42%	\$ 13,009.58	\$29,980.05
30.07	0.64%	\$1,537.05	779,130	21.57%	\$ 51,781.90	\$53,318.96
350	7.45%	\$17,890.56	43,995	1.22%	\$ 2,923.96	\$20,814.52
104.81	2.23%	\$5,357.46	18,731	0.52%	\$ 1,244.88	\$6,602.34
104.81	2.23%	\$5,357.46	21,780	0.60%	\$ 1,447.52	\$6,804.98
104.81	2.23%	\$5,357.46	24,829	0.69%	\$ 1,650.16	\$7,007.62
104.81	2.23%	\$5,357.46	27,878	0.77%	\$ 1,852.80	\$7,210.26
86	1.83%	\$4,395.97	24,829	0.69%	\$ 1,650.16	\$6,046.13
126	2.66%	\$6,440.60	40,946	1.13%	\$ 2,721.32	\$9,161.92
31.29	0.67%	\$1,599.42	23,900	0.66%	\$ 1,588.42	\$3,187.84
78.71	1.66%	\$4,023.33	13,503	0.37%	\$ 897.43	\$4,920.76
185	3.94%	\$9,456.44	71,438	1.98%	\$ 4,747.85	\$14,204.29
91	1.94%	\$4,651.55	46,174	1.28%	\$ 3,068.78	\$7,720.33
65	1.38%	\$3,322.53	83,328	2.31%	\$ 5,538.08	\$8,860.61
<b>4697.36</b>	<b>100.00%</b>	<b>\$240,109.76</b>	<b>3,612,782</b>	<b>100.00%</b>	<b>\$ 240,109.76</b>	<b>\$480,219.52</b>
<b>Cost per Front Foot</b>		<b>\$51.12</b>	<b>Cost per SF</b>		<b>\$0.07</b>	
<b>Eligible Costs</b>						
Fairdig Construction \$360,345.20						
PACE Engineers \$118,078.00						
Barghausen Consulting Engineers (Staking) \$1,796.32						
<b>\$480,219.52</b>						

\* Note the applicable front footage for parcel 1121069050 is 252 feet. This is not the entire length of the parcel frontage along 3rd Avenue, but rather the footage along the frontage of the new waterline improvements.

\*\* Note that parcel areas are taken from King County Assessor's information. Adjusted lot areas to reflect 50' stream buffer and/or property depth are based off of measurements using GIS data and are for calculation purposes only.

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION															
<b>SUBJECT:</b>  <b>Resolution 08-542 authorizing the Mayor to enter into an Interlocal Agreement with King County for provision of Fire Investigation Services.</b>	<b>Agenda Date: October 2, 2008</b>		<b>AB08-096</b>												
	Department/Committee/Individual	Created	Reviewed												
	Mayor Howard Botts		X												
	City Administrator –Gwen Voelpel														
	City Attorney – Loren D. Combs														
	City Clerk – Brenda L. Streepy	X													
	Finance – May Miller														
	Public Works – Seth Boettcher														
	Economic Devel. – Andy Williamson														
	Police – Jamey Kiblinger														
Timeline: Effective January 1, 2009	Court – Kaaren Woods														
	Comm. Development – Steve Pilcher														
<b>Attachments: Resolution No. 08-542; Interlocal Agreement; Exhibit A</b>															
<b>SUMMARY STATEMENT:</b>  King County has provided this service to the City in the past. Adoption of this resolution would allow the Mayor to enter into an Interlocal Agreement with King County for Fire Investigation services. The agreement would become effective January 1, 2009 and shall automatically terminate one year thereafter.															
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>															
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 08-542, authorizing the Mayor to enter into an Interlocal Agreement with King County for provision of Fire Investigation Services.</b>															
<table border="1"> <thead> <tr> <th><i>Meeting Date</i></th> <th><i>Action</i></th> <th><i>Vote</i></th> </tr> </thead> <tbody> <tr> <td>October 2, 2008</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>				<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	October 2, 2008								
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>													
October 2, 2008															

RESOLUTION NO. 08-542

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
AUTHORIZING THE MAYOR TO ENTER INTO AN  
INTERLOCAL AGREEMENT WITH KING COUNTY FOR  
PROVISION OF FIRE INVESTIGATION SERVICES

**WHEREAS**, the City has determined its need for Fire Investigation Services; and

**WHEREAS**, the City has requested that King County perform Fire Investigation Services on its behalf; and

**WHEREAS**, the County is willing to render such services on the terms and conditions set forth in this Agreement; and

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

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

**Section 1.** The Mayor is hereby authorized to enter into an Interlocal Agreement with King County as contained in form attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 2<sup>ND</sup> DAY OF OCTOBER, 2008.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Streepy, City Clerk



**INTERLOCAL AGREEMENT BETWEEN  
KING COUNTY AND THE CITY OF BLACK DIAMOND  
FOR PROVISION OF FIRE INVESTIGATION SERVICES**

THIS AGREEMENT is made and entered into this day by and between King County, a home rule charter county and political subdivision of the State of Washington, (hereinafter "the County"), and the City of Black Diamond, a municipal corporation in the State of Washington (hereinafter "City").

WHEREAS, the City has requested that the County perform fire investigation services on its behalf; and

WHEREAS, the County is willing to render such services on the terms and conditions set forth in this Agreement; and

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

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

I. **COUNTY OBLIGATIONS**

The King County Sheriff's Office Fire Investigation Unit shall provide the following fire investigation services to the City:

- A. Provide personnel, resources and material deemed appropriate by the County to supply the level of fire investigation services specified under this Agreement.
- B. Provide the same degree, type, and level of fire investigation service as is customarily provided to residents of unincorporated King County. These services are to be continuously available to the City every day of the year, both day and night. Services provided shall include the following:
  - 1. At least one County Fire Investigator will be available in an "on-call" status 24 hours per day to respond to requests for fire investigation in the City.
  - 2. Fire Investigators shall be responsible for the following, as appropriate:
    - a) Report to the Incident Commander or other Fire Department and/or Police personnel holding the fire scene;
    - b) Assume control of the fire scene upon approval of the Incident Commander;

- c) Provide scene security;
  - d) Evaluate the scene for legal authority to continue the scene examination and prepare and obtain search warrants when required by law to do so;
  - e) Conduct an Origin and Cause Investigation;
  - f) Photograph the fire scene;
  - g) Sketch the fire scene;
  - h) Collect evidence in those fires determined to be incendiary in cause;
  - i) Interview witnesses and/or suspects;
  - j) Prepare an Origin and Cause Report for all fires and prepare such associated reports required by the King County Sheriffs Office and/or King County Prosecutor's Office;
  - k) Conduct the criminal follow-up investigation or assist the local police agency with the criminal follow-up investigation as determined by the local police official; and
  - l) Assist the King County Prosecutors office in all criminal proceedings, including providing expert witness testimony during trial.
- 3. Fire investigation callouts will be in accordance with the protocols outlined in Exhibit A: "Fire Investigation Call Out Protocols for Contract Entities."
  - 4. The King County Fire Investigation Unit shall be responsible for compiling information and providing monthly Uniform Crime Reports to the King County Sheriff's Office on behalf of the City for the crime of arson.

## II. **CITY OBLIGATIONS**

The City shall:

- A. Delegate to the County's Fire Investigation Unit staff the authority and power to provide fire investigation services on behalf of the City as set forth in this Agreement.

- B. Provide police support as requested by the Fire Investigation Unit staff assigned to work on cases/incidents in the City.
- C. Pay the County the sum indicated in the Exhibit B. Annual reimbursement in years following the initial year of this Agreement shall be recalculated as part of any agreement to extend the term of this Agreement pursuant to paragraph III. The recalculated annual reimbursement amount shall be based upon the actual cost of King County providing specified services to the City and shall be consistent with the calculation method utilized in Exhibit B attached hereto.

III. **DURATION**

This Agreement shall take effect on January 1, 2009 and shall automatically terminate one year thereafter. The Agreement may be extended one additional year thereafter via written authorization by the City to KCSO. Beginning the third operational year, this Agreement will renew automatically from year to year unless terminated by either party as provided herein.

IV. **TERMINATION**

Either party may terminate this Agreement upon 12 months' prior written notification 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.

V. **MODIFICATION**

This instrument constitutes the entire Agreement between the parties and supersedes all prior Agreements. No modifications or amendment shall be valid unless evidence in writing, properly agreed to and signed by both parties. In the event that either of the parties shall desire to re-negotiate any of the provisions of this Agreement, such party shall notify the other party in writing of its intent. Such request to re-negotiate shall not be considered a notice of termination.

VI. **ADMINISTRATION OF AGREEMENT**

This Agreement shall be administered on behalf of the City by the chief executive office of the City or his/her designee and, on behalf of the County by the King County Sheriff or his/her designee.

VII. **MUTUAL COVENANTS**

Both parties understand and agree that the County is acting as an independent contractor.

- A. Control of personnel, standards of performance, discipline, and all other aspects of performance shall be governed entirely by the County;

- B. All County persons rendering services under this Agreement shall be for all purposes employees of the County;
- C. The County contact person for citizen complaints, service requests and general information on fire investigation services is the King County Fire Investigation Unit supervisor, or alternatively, the KCSO Criminal Investigations Division, Major Investigations Section supervisor; and
- D. The chief executive officer of the City may refer any problem relating to County services provided under this Agreement to the King County Sheriff. In the event of a dispute between the parties as to the extent of the service to be rendered, or the minimum level or manner of performances of such service, the determination of the King County Sheriff shall be final and conclusive in all respects.

VIII. **INDEMNIFICATION**

- A. The County shall indemnify and hold harmless the City and its officers, agents and 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 negligent acts or omissions of the County, its officers, agents, and employees, or any of them, in performing services pursuant to this Agreement. In the event that any 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 said suit if any principal of governmental or public law is involved; and if final judgment be rendered against the City and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, for negligent acts or omissions of the County, the County shall satisfy the same.
- B. The City shall indemnify and hold harmless the County and its officers, agents, and 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 negligent acts or omissions of the City, its officers, agents, and employees, or any of them. In the event that any suit based upon 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 said suit if any principle of governmental or public laws is involved; and if final judgment be rendered against the County, and its officers, agents, and employees, or any of them, or jointly against the County and City and their respective officers, agents and employees, or any of them, for negligent acts or omissions of the City, the City shall satisfy the same.

- C. 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 existence or effect of city ordinances, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, 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, include all chargeable costs and attorney's fees.
- D. The foregoing indemnity is specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Chapter 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

IX. **COMPLETE AGREEMENT**

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representation or understanding not incorporated herein is excluded.

X. **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 hereto have caused this AGREEMENT to be executed the day and year first herein above written.

King County

City of Black Diamond

\_\_\_\_\_  
King County Executive

\_\_\_\_\_  
Mayor/City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

King County Sheriff's Office

Approved as to Form

\_\_\_\_\_  
King County Sheriff

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form

\_\_\_\_\_  
King County  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Date

**EXHIBIT A**  
**FIRE INVESTIGATION**  
**CALL OUT PROTOCOLS FOR CONTRACT ENTITIES**

1.0 **SUBJECT TITLE** Fire Investigation Unit - Call Out Protocols for contract entities

2.0 **PURPOSE**

2.1 To outline the policies of the King County Sheriff's Office regarding the investigation of fires in cities having a contractual agreement for fire investigation with King County and to establish recommended procedures to be followed by the responsible fire suppression agency in determining when a King County fire investigator should be requested.

3.0 **ORGANIZATIONS AFFECTED**

- 3.1 King County Sheriff's Office
- 3.2 Fire Departments/Districts providing fire suppression to a city that has contracted with the King County Sheriff's Office for fire investigation services.
- 3.3 Cities having contracts with King County for fire investigation services

4.0 **REFERENCES**

- 4.1 International Fire Code
- 4.2 R.C.W. Chapter Title 9 and 9A
- 4.3 R.C.W. 19.27.110
- 4.4 R.C.W. 52.12.031 (7)
- 4.5 RCW 43.44.050
- 4.6 King County Administrative Policies and Procedures
- 4.7 King County Fire Marshal Operating instructions Manual
- 4.8 King County Fire Investigation Unit Policy & Procedure Manual

5.0 **PROCEDURE**

- 5.1 The Fire Investigation Unit should be notified and respond to fires as follows:
  - a. Fires where one or more deaths have occurred.
  - b. Fires where one or more serious injuries have occurred, and those injuries have required or are expected to require hospitalization of the

- injured party(s).
- c. Fires that are suspected to be, or are known to be intentionally set and are not investigated by Fire Department personnel under one of the excepted categories in 6.2.
- d. Fires where the fire suppression agency has not determined a cause, except where the loss is minimal and there is no measurable value in determining the cause.
- e. All fires where there is evidence that an explosive device was used to initiate the fire or resulted in the fire occurring.

Note: This provision is not intended to include containers normally found at the fire scene that exploded as a result of the fire, such as propane bottles, compressed air bottles or aerosol containers.

- 5.2 The King County Sheriff's Office Fire Investigation Unit will maintain an investigative program designed to collect, store and disseminate information relating to the prevention of fires, accidental or arson caused, to reduce loss of life, fire related injuries, incident frequency and monetary loss.
- 5.3 Every effort will be made to determine the cause of every investigated fire.
- 5.4 Where the cause has been determined to be arson, the Fire Investigation Unit of the King County Sheriff's Office shall perform the follow-up investigation and preparation of criminal charges where appropriate.
- 5.5 In incidents involving death or serious injury where hospitalization was or is expected to be required, all reports, evidence, and photographs will be properly secured by the Fire Investigation Unit until the case has been resolved
- 5.6 The King County Fire Investigation Unit will compile and submit monthly UCR (Uniform Crime Reporting) data for the Federal Bureau of Investigation to the King County Sheriff's Office, for cities who contract with the King County Sheriff's Office for police services and to the City Police Department for all cities that maintain their own Police Department if requested.
- 5.7 Fire investigators will submit a scene report within 48 hours of an incident to the police chief and fire chief.

## 6.0 **RESPONSIBILITIES**

- 6.1 The King County Fire Investigation Unit is responsible for the investigation of all fires that have been investigated by the Fire Investigation Unit as outlined in section 5.1 of this document.

- 6.2 Qualified Fire Department personnel in the responsible fire suppression agency may conduct fire investigations in the following categories:
- a. Intentionally set fires in dumpsters and other refuse/garbage containers.
  - b. Intentionally set fires in newspaper collection containers
  - c. Intentionally set fires in newspaper distribution structures (Times, P.I., etc.).
  - d. Intentionally set fires in containers used for collection of clothing, etc.
  - e. Intentionally set fires in abandoned vehicles with a value less than \$250.
  - f. And other such fires as the responsible fire department is qualified to investigate.
- 6.3 For investigations conducted by Fire Department personnel for the investigations noted in section 6.2 above the following recommended procedures may be followed:
- a. Notification of the King County Fire Investigation Unit within 48 hours of all fire investigations conducted by the Fire Department in accordance with Section 6.2 for all fires that were determined to be intentionally set.
  - b. Examination of the fire scene to determine area, point of origin and cause.
  - c. Identification, protection, preservation and collection of all physical evidence for all fires that were determined to be intentionally set. Fire department personnel will assist the responsible Police Department patrol unit in packaging of evidence, which will then be transported by the patrol unit for storage.
  - d. Preparation of a comprehensive fire investigation report using the King County Fire Investigation Unit format and, where necessary, a fire scene sketch for all fires that were determined to be intentionally set.
  - e. Photographing of the fire scene should be accomplished in three (3) steps, 1) prior to disturbing any debris or other items at or near the point of origin, 2) once again during the examination and 3) at the conclusion of the examinations. Any items considered to be evidence should be shown in photographs at the time and place they were discovered and identified.
  - f. Notification of the responsible Police Department via the police communications center where arson is suspected or confirmed.
  - g. Forwarding of the fire report along with all available information obtained during the investigation and transfer of the physical evidence, where appropriate, to the Fire Investigation Unit for **all fires** that were determined to be intentionally set.
  - h. Forwarding a copy of the photographs (or other acceptable photographic medium) and the negatives of the incident to the Fire Investigation Unit for all fires that were determined to be intentionally set.

Note: The proper documentation of fire incidents, accidental or arson, is critical. The scene examination must provide factual information describing what, where, why, and how this fire occurred. Photographs, properly taken, will provide a picture record of the conditions on arrival, during examination, and at the conclusion. The combination will be the basis for re-construction of the fire scene, determination of important time factors and sequence of events prior to and at the time of the fire, including the fire tactics used in extinguishing the fire, an important consideration.

**EXHIBIT B**  
**FIRE INVESTIGATION**  
**COST METHODOLOGY FOR CONTRACT ENTITIES**

CITY	2005		2006		2007		TOTALS		AVERAGE		2009 COST
	HOURS	% of TOTAL	HOURS	% of TOTAL	HOURS	% of TOTAL	HOURS	% of TOTAL	HOURS	% of TOTAL	ESTIMATE ONLY*
Black Diamond	25.75	1.33	12.25	0.50	16.75	1.25	54.75	0.95	18.25	0.95	\$1,666
Burien	296.75	15.35	525.00	21.35	78.00	5.80	899.75	15.68	299.92	15.59	\$27,382
Carnation	0	0	13.75	0.56	0	0	13.75	0.24	4.58	0.24	\$418
Des Moines	141.25	7.31	94.50	3.84	102.25	7.60	338.00	5.89	112.67	5.86	\$10,286
Duvall	77.25	4.00	50.50	2.05	7.50	0.56	135.25	2.36	45.08	2.34	\$4,116
Kenmore	240.25	12.43	148.75	6.05	48.50	3.61	437.50	7.63	145.83	7.58	\$13,314
Issaquah	62.25	3.22	24.25	0.99	0	0	86.50	1.51	28.83	1.50	\$2,632
Lake Forest Park	-	-	52.50	2.14	14.25	1.06	66.75	1.16	33.38	1.74	\$3,048
Maple Valley	21.00	1.09	186.00	7.56	195.25	14.51	402.25	7.01	134.08	6.97	\$12,241
Newcastle	101.50	5.25	32.75	1.33	53.75	4.00	188.00	3.28	62.67	3.26	\$5,722
North Bend	16.50	0.85	50.00	2.03	0	0	66.50	1.16	22.17	1.15	\$2,024
Sammamish	144.00	7.45	285.75	11.62	38.75	2.88	468.50	8.17	156.17	8.12	\$14,258
SeaTac	242.25	12.53	220.75	8.98	320.00	23.79	783.00	13.65	261.00	13.57	\$23,828
Shoreline	321.25	16.62	620.50	25.24	355.75	26.44	1,297.50	22.62	432.50	22.49	\$39,486
Snoqualmie	122.25	6.33	22.25	0.90	0	0	144.50	2.52	48.17	2.50	\$4,398
Woodinville	120.50	6.23	119.25	4.85	114.55	8.51	354.30	6.18	118.10	6.14	\$10,782
<b>TOTAL</b>	<b>1,932.75</b>	<b>100.0</b>	<b>2,458.75</b>	<b>100.0</b>	<b>1,345.30</b>	<b>100.0</b>	<b>5,736.80</b>	<b>100.0</b>	<b>1,923.40</b>	<b>100.0</b>	<b>\$175,600**</b>

\* 2009 Cost estimate is based on the 2008 adopted cost book, plus 5% inflation. Proposed 2009 costs will be sent in October 2008.  
Adopted 2009 costs will be sent in May 2009.

\*\* Cost of one fully-loaded FIU FTE.

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Resolution No. 08-543, authorizing the Mayor to execute Lease Agreements with Modular Space Corporation (ModSpace)</b>	<b>Agenda Date: October 2, 2008</b>		<b>AB08-097</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Gwen Voelpel		
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Streepy		<b>X</b>
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson	<b>X</b>	
	Police – Chief Kiblinger		
Timeline:	Court – Kaaren Woods		
Cost Impact: \$5,230.74 monthly			
Fund Source: Funding Agreement			
<b>Attachments: Resolution No. 08-543, Lease Agreements #358159 and #383607</b>			
<b>SUMMARY:</b> The current modular offices that house Community Development and the Utilities Department are funded under the Funding Agreement; need to have the Lease Agreements approved by the City Council. Adoption of this resolution would authorize the Mayor to execute these Lease Agreements. ModSpace has delivered and set up these modulars which staff has been using since December of 2007.			
COMMITTEE REVIEW AND RECOMMENDATION:			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 08-543, authorizing the Mayor to execute Lease Agreements with Modular Space Corporation (ModSpace).</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
October 2, 2008			

**RESOLUTION NO. 08-543**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
AUTHORIZING THE MAYOR TO EXECUTE LEASE  
AGREEMENTS WITH MODULAR SPACE CORPORATION  
(MODSPACE)**

**WHEREAS**, the City of Black Diamond has determined the need for additional work space to house the Community Development and the Utilities Departments.

**WHEREAS**, Modular Space Corporation is willing and able to set up and install and lease the modular work areas and the City has used this same contractor and has been satisfied with their work;

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

**Section 1.** The Mayor is authorized to execute lease agreement number 358159 and number 383607 for the combined amount of \$5,230.74 per month as contained in forms attached hereto as Exhibit A and Exhibit B.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING, THIS 2<sup>ND</sup> DAY OF OCTOBER, 2008.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Streepy, City Clerk





LEASE AGREEMENT NO.: 358159

ACCOUNT NO.: 111564

CUSTOMER NO.: 166950

**RETURN EQUIPMENT TO ModSpace:**

SEATTLE  
 19432 EAST VALLEY HIGHWAY  
 KENT  
 WA 98032  
 Telephone: 253-395-0301  
 1-800-523-7918  
 Fax: 253-395-0235

Modular Space Corporation, a Delaware corporation ("ModSpace") hereby leases the equipment specified below (the "Equipment") to:

CITY OF BLACK DIAMOND  
 PO Box 599  
 BLACK DIAMOND  
 WA 98010-0599  
 Customer Contact: Kevin Esping  
 Telephone: 253-261-0594  
 Fax: 360-886-2592  
 P.O. #:

The Equipment will be located at (subject to Section 4 on attached page):

TBD  
 BLACK DIAMOND  
 WA 98010

Customer hereby leases Equipment from ModSpace for a minimum period of 24 months (the "Minimum Lease Period") from the start of the lease term in accordance with the terms and conditions of this Lease Agreement including the terms and conditions set forth on the attached page (this "Lease"). Rental month is defined as a thirty-day period.

Customer agrees to pay ModSpace without demand and in advance the monthly rental and other charges on the due dates set forth in this Lease. The anticipated delivery date for the Equipment, subject to Section 3(c) on the attached page, will be on or about the 27th day of August, 2007.

Unit	Class	Width	Length	Serial No.	Monthly	Weekly	Daily	Insurance Value
653523	MULT	12'	60'	26156A	\$650.00	\$149.59	\$21.37	\$48,519
653524	MULT	12'	60'	26156B	\$650.00	\$149.59	\$21.37	\$48,519
653525	MULT	12'	60'	26156C	\$650.00	\$149.59	\$21.37	\$48,519
653526	MULT	12'	60'	26156D	\$650.00	\$149.59	\$21.37	\$48,519

ONE TIME CHARGES	
<b>DELIVERY</b>	
DELIVERY FUEL SURCHARGE	
(Qty: 4 at \$25.00)	\$100.00
BUILDING DELIVERY (Qty: 4 at \$374.00)	\$1,496.00
OPTIONAL EQUIPMENT (Qty: 4 at \$210.00)	\$840.00
<b>INSTALLATION</b>	
REMOVE HITCH (Qty: 4 at \$75.00)	\$300.00
ANCHOR/TIE DOWN (Qty: 22 at \$81.00)	\$1,782.00
RAMP ASSEMBLY (Qty: 1 at \$1,276.00)	\$1,276.00
SET-UP COMPLEX (Qty: 1 at \$10,250.00)	\$10,250.00
INSTALL SKIRTING - VINYL	
(Qty: 216 at \$20.00)	\$4,320.00
<b>MODIFICATIONS</b>	
INSTALL PARTITION (LABOR)	
(Qty: 1 at \$5,750.00)	\$5,750.00
Installation of demount walls	
MODIFICATIONS-SINK/CABINET	
(Qty: 1 at \$3,775.00)	\$3,775.00
Installation of Kitchenette and change of door swing	
REMOVE CUSTOM MODIFICATIONS* (Qty: 1)	***
Kitchenette, change door back to original swing.	
<b>RETURN DELIVERY</b>	
BUILDING RETURN* (Qty: 4)	***

MONTHLY CHARGES	
COMPLEX	\$2,600.00
<b>RENTAL</b>	
RAMPS (Qty: 1 at \$390.00)	\$390.00
STEPS (Qty: 1 at \$35.00)	\$35.00
Total	\$3,025.00
Monthly Property Tax	\$47.28
Sales Tax(Monthly Lease Items)	\$261.17
Grand Total(Monthly)	\$3,333.45

LEASE AGREEMENT NO.: 358159

ACCOUNT NO.: 111564

CUSTOMER NO.: 166950



**RETURN EQUIPMENT TO ModSpace:**

SEATTLE  
 19432 EAST VALLEY HIGHWAY  
 KENT  
 WA 98032  
 Telephone: 253-395-0301  
 1-800-523-7918  
 Fax: 253-395-0235

383607

(Continued)

RETURN FUEL SURCHARGE* (Qty: 4)	***
OPTIONAL EQUIPMENT* (Qty: 4)	***
DISMANTLING	
INSTALL HITCH* (Qty: 4)	***
REMOVE ANCHORS/TIEDOWNS* (Qty: 1)	***
UNSKIRT* (Qty: 1)	***
REMOVE RAMPS* (Qty: 1)	***
TEAR DOWN COMPLEX* (Qty: 1)	***
REMOVE PARTITION (LABOR)* (Qty: 1)	***
	Total
	\$29,889.00
	Sales Tax(One Time)
	\$2,540.54
	Grand Total(OneTime)
	\$32,429.54

DAILY: \$85.48  
 WEEKLY: \$598.36

\*\* Billed at Termination  
 \*\*\* Billed at current rate at Termination

#Tax rates will vary with delivery address. Taxes are subject to change by tax authorities without notice.

No agent, employee or representative of ModSpace has any authority to make any representation or warranty concerning the Equipment that is not specifically included in this Lease. Unless specifically identified in this Lease, this Lease supersedes all prior negotiations, proposals and documents. This Lease will not be subject to any additional provision that may be contained in the Customer's purchase order, although Customer's purchase order number may be used by the parties as a convenient reference for invoicing purposes.

(012) Tax rates may vary dependent upon confirmation of final delivery address. Any adjustment to the Tax rate imposed by city, county, state, or federal government or other taxing authority subsequent to the date of ModSpace' quotation, proposal, or commencement date of the Lease will be reflected on Customer's invoice. Customer is responsible for the payment of any increase in Taxes and such obligation supersedes any conflicting language contained in any Customer document.

(013) Any Value Added Products or services (including but not limited to holding tanks, ramps, security services) are products provided by a third party vendor. ModSpace will not be held responsible for the maintenance or servicing of such products. Customer will be responsible for any and all of the third party vendor's terms and conditions that typically govern the leasing and servicing of the equipment. The Customer understands that for their convenience ModSpace will coordinate the product or service and act as a billing agent for the third party vendor.

(014) ALL RIGHT, TITLE AND INTEREST OF MODULAR SPACE CORPORATION HEREUNDER HAS BEEN PLEDGED TO, AND IS SUBJECT TO THE SECURITY INTERESTS OF, BANK OF AMERICA, N.A., AS AGENT, PURSUANT TO THAT CERTAIN SECOND AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF MARCH 30, 2007, AMONG MODULAR SPACE CORPORATION, CERTAIN OF ITS SUBSIDIARIES PARTY THERETO AS EITHER BORROWER OR GUARANTOR, BANK OF AMERICA, N.A. AS AGENT, AND THE LENDERS FROM TIME TO TIME PARTY THERETO, AS AMENDED, RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME. MODULAR SPACE CORPORATION SHALL HAVE NO RIGHT TO TRANSFER ITS RIGHT, TITLE OR INTEREST HEREUNDER TO ANY PARTY EXCEPT PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE RELEVANT LOAN DOCUMENTS.

Comprehensive and Liability insurance coverage certificate must be received prior to delivery or Lessee will need to accept ModSpace Optional Insurance and/or Damage Waiver on ModSpace leases agreement prior to delivery.

Return delivery and dismantle will be billed at current rate at time of return unless otherwise quoted.

Pilot cars will be billed as required for 12' or 14' wide trailer @ 210.00 per unit on each delivery or return. Charges over a 25 mile radius will be charged on a per mile basis at \$1.75 per mile

Tiedowns/anchors not included and will be priced upon request.

Alterations will require an alteration permit through Washington State Department of Labor and Industries.

Set up is based on 1000psf soil bearing capacity.

Excessive cleaning and/or damage will be charged additionally at prevailing rates.

The Lessee is responsible for providing a level site that is accessible to standard mobile transport equipment.



LEASE AGREEMENT NO.: 358159

ACCOUNT NO.: 111564

CUSTOMER NO.: 166950

RETURN EQUIPMENT TO ModSpace:

SEATTLE
19432 EAST VALLEY HIGHWAY
KENT
WA 98032
Telephone: 253-395-0301
1-800-523-7918
Fax: 253-395-0235

(Continued)

Wait time or additional site time will be charged at \$75.00/hr. Additional charges may apply for labor time.

Property tax and sales tax will be charged additionally.

Customer is responsible for all taxes, permits, fees, licenses, utility connections, foundation engineering, and the preparation of a level, compact and accessible site.

\*CHARGES FOR RETURN FREIGHT, DISMANTLE, CLEANING, DAMAGE REPAIR, AND NON-RETURNED KEYS WILL BE CHARGED AT THE THEN CURRENT RATE AT THE TIME OF LEASE TERMINATION.

Steps not returned will be billed at \$700.00 per landing. Keys not returned will be charged \$75.00 per door

Used equipment is sold "as-is", no warranty expressed or implied.

The attached page contains Terms and Conditions that form an integral part of this Lease. Those terms and conditions include but are not limited to disclaimers of warranties of merchantability and fitness and limitations on damages. The only other documents that form a part of this lease are: US20021216, NONE

Signed by duly authorized agents, with the intent to be legally bound, this \_\_\_ day of \_\_\_, 20\_\_.

By [Signature]
Modular Space Corporation AUTHORIZED AGENT

By [Signature]
CUSTOMER OR AUTHORIZED AGENT

Name RHONDA BANGHART

Name (please print)

Accepted and Del. By: Freight Vendor

Date:

Remarks:

Received and Accepted By:
Name: (please print)

Date:



**TERMS AND CONDITIONS OF LEASE AGREEMENT****1. Lease**

This transaction is a lease as defined by the Uniform Commercial Code as enacted in Pennsylvania and not a sale. Customer does not acquire through this Lease or by payment of rental under this Lease any right, title or interest in or to the Equipment, except the right to possess and use the Equipment so long as Customer is not in default under this Lease.

**2. Rental and Other Payments**

(a) The start of the lease term is the date on which ModSpace substantially completes its scope of work for installation, unless otherwise agreed to among the parties.

Monthly rental will accrue through and including the month in which the later of the Return Date or End of the Term occurs. The "Return Date" is the date on which the Equipment is returned to ModSpace in accordance with the terms of this Lease. The "End of the Term" is the date on which the term of this Lease is to expire, either originally, under a renewal term or under month-to-month renewals as contemplated by this Lease. Rental and such other charges will be prorated on a daily basis where necessary. Unless otherwise specified in this Lease, charges for delivery and installation, initial month's rent and any applicable initial charges for the Optional Insurance Program and Damage Waiver will be due and payable at the start of the lease term, and charges for teardown and return will be due and payable at the earlier of the Return Date or the End of Term. After payment of the initial month's rent, each month's rent thereafter is due and payable without demand and in advance (i) at the end of each thirty (30) day period following the commencement of the lease term, if a rental month is defined on the first page of this Lease as a thirty-day period or (ii) on the first of each month immediately following the month in which this lease commences, if a rental month is defined on the first page of this Lease as a calendar month. All other sums payable by Customer under this Lease are due and payable when invoiced. Unless agreed otherwise, all payments made under this Lease will be made by Customer's check drawn on its regular bank checking account or such other form of payment as is acceptable to ModSpace. All payments by Customer will be made without setoff or deduction of any kind.

(b) Customer will pay ModSpace for any and all sales and use taxes, other direct taxes and registration fees imposed by any city, county, state, or federal government or other taxing authorities and related directly or indirectly to the Equipment or its use, excluding federal or state taxes relating to income (all of the foregoing that Customer is to pay, "Taxes"). Taxes may be allocated by ModSpace on either an individual or prorated basis for any item of Equipment based on purchase price, value, possession, use, location, rentals, delivery or operation of such Equipment. Taxes may include an allocation (b) Customer will pay ModSpace for any and all sales and use taxes, other direct taxes and registration fees imposed by any city, county, state, or federal government or other taxing authorities and related directly or indirectly to the Equipment or its use, excluding federal or state taxes relating to income (all of the foregoing that Customer is to pay, "Taxes"). Taxes may be allocated by ModSpace on either an individual or prorated basis for any item of Equipment based on purchase price, value, possession, use, location, rentals, delivery or operation of such Equipment. Taxes may include an allocation on a statewide basis of locally imposed taxes. Customer's obligations under this Subsection will survive the termination of this Lease.

(c) For Customer's convenience, ModSpace intends to issue invoices for amounts due under this Lease. If Customer fails to pay any amount due within twenty (20) days of the due date, ModSpace may impose a charge on such amount at one and one-half percent (1-1/2%) per month or the highest rate permitted by law, whichever is lower, from the due date until payment in full is received by ModSpace.

(d) When the Lease term exceeds eleven (11) months, the rental charge may, at ModSpace's option, be adjusted upward, based upon the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items ("CPI") (United States Bureau of Labor Statistics or such other index as may succeed the CPI), as follows: For each change of one percent (1%) in the CPI from the CPI as available immediately prior to the start date of this Lease, the rental rate will be adjusted by a factor of one percent (1%). Any adjustments will take effect at six (6) months following the start date of this Lease and will be further adjusted each six (6) months thereafter. The adjustment will be based on the most recent CPI indices available prior to the invoice in which an adjustment is made.

(e) From time to time, at ModSpace's option, ModSpace may add additional costs and expenses, including but not limited to increases in fuel costs and/or other operating costs and expenses ("Additional Operating Costs") to the rental charges and other payments that Customer must pay to ModSpace under this Lease, said Additional Operating Costs will be calculated by ModSpace, in its sole discretion, as a result of increases in ModSpace's costs and expenses.

**3. Delivery and Installation**

(a) Customer will provide free and clear access for delivery of the Equipment by standard mobile transport vehicles. Customer will be solely responsible, at its cost, for preparation of the site on which the Equipment is to be used (the "Site"), including any required structural or grade alterations and identification of utility lines. Customer will provide firm and level ground on no more than a six-inch (6") slope from one end to the other for safe and unobstructed installation for the Equipment. Site selection is the sole responsibility of Customer. **ModSpace ASSUMES NO LIABILITY NOR OFFERS ANY WARRANTY FOR THE FITNESS OR ADEQUACY OF, OR THE UTILITIES AVAILABLE AT THE SITE.**

(b) Customer will have sole responsibility, at Customer's cost, to obtain any and all licenses, titles, building and other permits and any other approvals and certificates as may be required by law or otherwise for the installation and placement of the Equipment and Customer's lawful operation, possession or occupancy of the Equipment. Customer agrees that all certificates of title or registration applicable to the Equipment will reflect ModSpace's ownership of the Equipment.

(c) ModSpace's delivery of the Equipment is subject to delays in manufacturing, modification, delivery or installation due to fire, flood, windstorm, riot, civil disobedience, strike or other labor actions, acts of God, or any circumstances beyond ModSpace's control (including but not limited to breaches by ModSpace's sub-contractors or manufacturers) which delay the manufacture or modification of products or the making of deliveries in the normal course of business.

(d) The prices for delivery, installation, teardown, return delivery and other "one-time" charges, the due dates of such charges and the start date of this Lease assume accuracy of the information given to ModSpace with respect to Site conditions and locations and are subject to adjustment to the extent that the timing of or physical nature of access to the Site is or becomes limited, the Site does not have adequate load bearing or topographic qualities or is otherwise not properly prepared, utilities are not correctly located, provision of utilities is not timely or applicable licenses or permits are not provided in a timely manner or Customer otherwise delays completion of ModSpace's scope of work.

(e) ModSpace may suspend work at the Site if ModSpace deems the Site to be unsafe.

**4. Maintenance of Equipment**

(a) Customer will not move or in any way modify the Equipment without written consent of ModSpace. Notwithstanding ModSpace's consent to Customer's modification of the Equipment, Customer is liable for the cost of the removal of such modification or restoration of the Equipment upon the termination of this Lease for the modified Equipment. ModSpace may place its name on the Equipment, and Customer will assure that such name is not removed or concealed in whole or in part.

(b) Customer, at Customer's sole cost, will keep the Equipment at all times until the Return Date in good repair and operating condition, subject to ordinary wear and tear, and free of any and all liens and encumbrances. ModSpace will have the right to inspect the Equipment from time to time until the Return Date and if ModSpace believes the Equipment to be misused, abused or neglected, ModSpace may summarily remove and repossess the Equipment at Customer's cost.

(c) Customer will perform, execute and comply with all Laws which in any way affect the use, operation, maintenance, or storage of the Equipment. "Laws" means all laws, rules, regulations or orders of any governmental agency or instrumentality of the United States, Canada, any state, province, municipality or other local government and all orders, writs and decrees of any court, tribunal or administrative agency, in any case which now exist or hereafter arise (including but not limited to laws governing Hazardous Substances and other environmental risks and the Americans with Disabilities Act). Customer will not make or permit any unlawful use or handling of the Equipment.

(d) **HAZARDOUS SUBSTANCES.** (i) "Hazardous Substances" means hazardous, toxic, radioactive or bio-hazardous substances or petroleum products. (ii) Customer will not use or store Hazardous Substances in the Equipment, except such substances and in such quantities as would be normal in the operation of a commercial office.

Customer will not locate the Equipment at a remediation or nuclear site or use the Equipment for medical laboratory testing. (iii) Ordinary wear and tear does not include contamination by Hazardous Substances. If any returned Equipment is found to have been contaminated by Hazardous Substances during Customer's possession, ModSpace may charge Customer for the clean up or may require Customer to purchase the Equipment at the then current market price charged for an uncontaminated unit.

(e) Customer agrees that the Equipment leased hereunder will not be occupied by any person other than Customer or its agents, employees or invitees. The Equipment will not be used for residential or dormitory purposes.

**TERMS AND CONDITIONS OF LEASE AGREEMENT****5. NO WARRANTY FOR MERCHANTABILITY OR FITNESS**

THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, AND ALL WARRANTIES OF ANY KIND, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, ARE HEREBY EXCLUDED BOTH AS TO THE EQUIPMENT AND AS TO ANY INSTALLATION, MAINTENANCE OR REPAIR WORK PERFORMED BY ModSpace ON THE EQUIPMENT.

**6. Limitation of Damages**

Customer does hereby expressly waive any and all claims and demands for loss of profits or other alleged consequential, incidental or punitive damages arising out of or in connection with this Lease. ModSpace is not liable for any loss or damage to any property stored, located or transported in, upon, under or around any Equipment and Customer does hereby waive any and all claims and demands for any such loss or damage.

**7. End of Lease**

(a) Unless specified otherwise, Customer must give ModSpace sixty (60) days' prior written notice of the date on which the Equipment is to be returned.

(b) If Customer, without any further written agreement, continues to possess or occupy the Equipment after the expiration of the initial and any renewal term of Lease, with or without consent of ModSpace, Customer will then be deemed to have renewed this Lease on a month-to-month basis subject to such rate as ModSpace declares to be in effect (and in the absence of such declaration at the last monthly rate applicable to the Equipment), and ModSpace may terminate such month-to-month extensions at any time.

(c) If, at any time after the initial or any renewal term (or at ModSpace's request at any time this Lease is on a month-to-month basis), ModSpace requests the return of the Equipment, Customer will return the Equipment to ModSpace, within five (5) days, at ModSpace's designated address, at Customer's sole cost. Missing accessories, attachments or other items, repairs of any kind and restoration to original specifications whether due to Customer alterations or otherwise will remain the sole responsibility of Customer, normal wear and tear excepted.

(d) Customer may terminate this Lease prior to the expiration of the Minimum Lease Period, subject to all terms and conditions of this Lease, and the Customer will pay (in addition to tear-down and return charges) the following termination charges:

i) If Customer is the first user of the Equipment: the remaining unpaid rental charges for the Minimum Lease Period;

ii) If Customer is not the first user: (A) if the remaining Minimum Lease Period ("MLP") is less than three (3) rental months, four (4) times the Adjusted Weekly Lease Charge ("AWLC"); (B) if the remaining MLP is between three (3) rental months and six (6) rental months, inclusive, eight (8) times the AWLC; if the remaining MLP is more than six (6) rental months but one (1) year or less, twelve (12) times the AWLC; if the remaining MLP exceeds one (1) year, fourteen (14) times the AWLC for each year, or portion thereof, of the portion of the remaining MLP cancelled.

iii) The "Adjusted Weekly Lease Charge" or "AWLC" means the Weekly Lease Charge less that portion representing amortization of any delivery, set-up, teardown, return or similar one-time charges and customer-requested modifications not provided as a separate charge under the terms of this Lease (the "Amortized One-Time Costs"). In addition, Customer will pay in full the unpaid Amortized One-Time Costs. In no case will the termination charges be in excess of the rental charge for the remainder of MLP.

**8. Indemnification**

Customer hereby specifically indemnifies, agrees to defend and holds harmless ModSpace, its employees and agents from any and all loss, claims, liabilities, damages, fines, forfeitures, seizures, penalties and expenses (including attorneys' fees and investigative costs) (collectively "Losses") that may arise from or in connection with:

(a) The loss of or damage to the Equipment prior to the Return Date because of (a) The loss of or damage to the Equipment prior to the Return Date because of collision, fire, lightning or theft, flood, windstorm or explosion, civil disturbance or riot or any other peril or casualty;

(b) The death of or injury to, including but not limited to, damage to the property of, any person (other than the Equipment) as a result of, in whole or in part, the use or condition prior to the Return Date of the Equipment;

(c) Any act or omission of Customer in violation of this Lease;

(d) The actual or alleged storage, maintenance, use, handling, repair, or operation of the Equipment, prior to the Return Date, including but not limited to any failure to use anchor straps, any work done on, or any materials supplied to or in connection with the operation, maintenance, possession or storage of the Equipment and any loss or damage to anything stored in any of the Equipment; and

(e) Any damage to Customer's property or the property of any third parties incurred during or in connection with the fulfillment of Customer's obligations by or on behalf of ModSpace or the repossession or return of Equipment by ModSpace in accordance with the terms of this Lease.

The obligations contained in this Section 8 will survive expiration or termination of the term of this Lease and the Return Date. The indemnifications contained in this Section 8 will apply to any Losses whether they are asserted before or after the Return Date.

**9. Insurance**

(a) Customer, at Customer's sole cost, will procure and keep in full force and effect, from the initial delivery date until the return of all Equipment the following policies of insurance satisfactory to ModSpace as to the insurer and as to the form and amount of coverage, with premiums prepaid:

i) Commercial General Liability Insurance with a minimum combined single limit of \$1,000,000 per occurrence, written on an occurrence form, including coverage for premises, operations, contractual liability, broad form property damage, independent contractors and personal injury liability, naming ModSpace as an additional insured.

ii) Commercial Property Insurance protecting against all loss and damages, at full replacement cost, sustained or suffered due to the loss of or damage to the Equipment as a result of collision, fire, lightning, theft, flood, windstorm, explosion or any other casualty, naming ModSpace and Bank of America, N.A. as a loss payee.

(b) Customer will deliver certificates evidencing all such insurance to ModSpace within fourteen (14) days after delivery of the Equipment to Customer's site, time being of the essence; except that, if Customer elects to enroll in the Optional Insurance Program or the Damage Waiver Option, Customer will not have to deliver certificates of insurance to ModSpace for the type of risks covered by the Optional Insurance Program or Damage Waiver Option as elected by Customer. Each certificate will state that such insurance will not terminate or be materially changed without thirty (30) days' prior written notice to ModSpace.

(c) If Customer fails to deliver the insurance certificate as required by paragraph (b) on the date required, Customer will be in default under this Lease. In addition to all the other remedies for default under this Lease, ModSpace may (i) impose upon Customer a one-time fee for insurance processing of One Hundred Dollars (\$100) and (ii) assess as additional rent an uninsured lessee fee of ten percent (10%) of the monthly rental from the start of the lease term until the required insurance certificate is delivered to ModSpace.

(d) Obtaining insurance as described above, including the Optional Insurance Program, will not affect Customer's obligations and indemnities under this Lease, and the loss, damage to, or destruction of any of the Equipment will neither terminate this Lease nor, except to the extent that ModSpace is actually compensated by insurance paid for by Customer, relieve Customer of any of Customer's liability under this Lease.

## TERMS AND CONDITIONS OF LEASE AGREEMENT

**10. Optional Insurance and Damage Waiver**

(a) In certain circumstances, Customer may choose (i) to enroll in an Optional Insurance Program to cover general liability risks (the "Optional Insurance Program") or (ii) to accept a Damage Waiver Option to cover damage to the Equipment (the "Damage Waiver Option") or (iii) to elect both options. If the Optional Insurance Program or the Damage Waiver Option is available and Customer, in writing prior to delivery of the Equipment to the site, elects to enroll in the Optional Insurance Program or accept the Damage Waiver Option, then, Section 10(b) will apply if Customer elects to enroll in the Optional Insurance Program and, Section 10(c) will apply if Customer accepts the Damage Waiver Option.

(b) The Optional Insurance Program is fully described in an Outline of Coverage ("the "Outline of Coverage") which Customer has received and reviewed prior to any election to enroll in the Optional Insurance Program. All questions regarding the Optional Insurance Program will be answered by the qualified licensed insurance agent identified in the Outline of Coverage. If Customer properly elects to enroll in the Optional Insurance Program, so long as such coverage is still in full force and effect, Customer will not be required, under this Lease, to carry additional commercial liability insurance as required by Section 9(a)(i).

(c) If the Damage Waiver Option is properly elected and so long as Customer timely pays the additional fee specified for such Damage Waiver Option, Customer will not be required, under the terms of this Lease, to carry any additional commercial property insurance as required by Section 9(a)(ii) and Customer will not be liable to ModSpace in excess of \$500 per unit of Equipment for loss or damage specified in Section 3(a), except Customer will not be relieved of liability if Customer violates any other provision of this Lease. **THE DAMAGE WAIVER IS NOT INSURANCE COVERAGE.**

(d) Customer's coverage under the Optional Insurance Program or acceptance of the Damage Waiver Option may be cancelled by either party and rates for coverage under the Optional Insurance Program or fees for the Damage Waiver Option may be changed upon thirty (30) days' prior written notice. If the Optional Insurance Program or Damage Waiver Option is, for any reason, cancelled, Customer will provide to ModSpace evidence of policies of insurance as set forth in Sections 9(a)(i) or 9(a)(ii), as appropriate, within ten (10) days prior to the effective date of such cancellation.

(e) The coverage provided under the Optional Insurance Program and the limitation of liability under the Damage Waiver Option does not extend to the transportation of Equipment or its contents and, only extends to Equipment installed on ground level.

(f) The Damage Waiver Option will not be binding upon ModSpace unless any loss, damage, injury or claim is reported to ModSpace in writing within seventy-two (72) hours of the occurrence of any such event. Customer will also provide any information in regard to such event that ModSpace reasonably requests.

**11. Default**

The occurrence of one or more of the following in clauses (a) - (e) below will constitute an Event of Default under this Lease:

(a) Customer fails to pay when due any rental payment or any other payment due under this Lease or fails to perform its obligations under Section 9 of this Lease;

(b) Customer fails to perform or observe any other term or condition under this Lease and such failure remains unremedied for more than ten (10) days after such failure to perform or observe;

(c) Customer or any person or entity which controls more than fifty percent (50%) of Customer's equity (a "Control Person") or any guarantor of any of Customer's obligations hereunder (a "Guarantor") (i) becomes insolvent, (ii) becomes subject to any voluntary or involuntary bankruptcy or reorganization proceedings, (iii) commits an act of bankruptcy, (iv) makes an assignment for the benefit of creditors, (v) appoints or submits to the appointment of a receiver for all or any of its assets, (vi) admits in writing its inability to pay its debts as they become due or (vii) enters into any type of voluntary or involuntary liquidation or dissolution;

(d) Customer, any Control Person or any Guarantor defaults under any other agreement with ModSpace or any affiliate of ModSpace; and

(e) Any letter of credit, guaranty or other security given to secure the performance of Customer's obligations under this Lease expires, terminates or in the reasonable opinion of ModSpace becomes worthless. Upon the occurrence of an Event of Default, ModSpace will have the option to declare the entire balance of rent for the remainder of the stated lease term immediately due and payable and to accelerate and make immediately due and payable any other amounts owing under this Lease.

ModSpace will also have the option to retake and retain any or all of the Equipment free of all rights of Customer without any further liability or obligation to redeliver any of the Equipment to Customer, and Customer hereby grants ModSpace the right to enter upon any premises where all or any of the Equipment is located in order to take possession of and remove such Equipment. (Notwithstanding the foregoing, if an Event of Default occurs under clause (c) above, such accelerations will occur automatically without the need for declaration.) Customer will pay to ModSpace on demand all fees, costs and expenses incurred by ModSpace in enforcing its rights under this Lease, including without limitation reasonable attorneys' fees. The remedies provided in favor of ModSpace will be cumulative and in addition to all other remedies provided in this Lease or existing at law or in equity. No action taken by ModSpace pursuant to this Section 11 or Section 13 will release Customer from Customer's covenants, obligations and indemnities provided under this Lease, including but not limited to Customer's obligation for the payment of rentals provided in this Lease. ModSpace retakes possession of the Equipment or any part of the Equipment and there is at the time of such retaking, in, upon or attached to such repossessed Equipment, any other property, goods or things of value owned by Customer or in the custody or control of Customer, ModSpace is authorized to take possession of such other property, goods or things and hold the same for Customer, at Customer's sole cost, either in ModSpace's possession or in public storage, at ModSpace's sole discretion.

12. **ModSpace' Right To Cure**

If Customer defaults in any of its obligations under this Lease, whether or not an Event of Default then exists, ModSpace may pay all amounts or perform or cause to be performed all obligations required to be paid or performed by Customer under this Lease and recover from Customer as additional rent all amounts so paid or the reasonable value of all services so performed.

**13. Set-Off**

Without limiting any other provision of this Lease, upon the occurrence of an Event of Default, ModSpace will have the immediate right, without notice, demand or other action, to set-off against Customer any amounts ModSpace may hold as prepayments or deposits for ModSpace liabilities to Customer whether or not then due to Customer. Unless otherwise prohibited by law, ModSpace will be deemed to have exercised such right to set-off and to have made a charge against any such sums immediately upon the occurrence of any Event of Default by Customer.

**14. Assignment, Amendment, Modification, Miscellaneous**

(a) Customer will not have the right to assign this Lease or to sublet, rent or otherwise hire out or transfer possession of any of the Equipment to any person or entity other than ModSpace, without the prior written consent of ModSpace. ModSpace may assign this Lease and the rentals reserved under this Lease. If ModSpace makes such an assignment, the assignee will acquire all rights and remedies possessed by or available to ModSpace under this Lease.

(b) This Lease contains the entire agreement between the parties pertaining to the subject matter of this Lease. No agreements, representation or understandings not specifically contained in this Lease will be binding upon any of the parties hereto unless reduced to writing and signed by the parties to be bound thereby. Any amendment, modification or addendum to this Lease will not be binding on ModSpace unless signed by an authorized officer of ModSpace. This Lease will be governed as to its construction, interpretation and effect by the laws of the Commonwealth of Pennsylvania without regard to principles of choice of laws.



Exhibit B



LEASE AGREEMENT NO.: 383607  
 ACCOUNT NO.: 111564  
 CUSTOMER NO.: 166950

**RETURN EQUIPMENT TO ModSpace:**

SEATTLE  
 19432 EAST VALLEY HIGHWAY  
 KENT  
 WA 98032  
 Telephone: 253-395-0301  
 1-800-523-7918  
 Fax: 253-395-0235

Modular Space Corporation, a Delaware corporation ("ModSpace") hereby leases the equipment specified below (the "Equipment") to:

CITY OF BLACK DIAMOND  
 PO Box 599  
 BLACK DIAMOND  
 WA 98010-0599  
 Customer Contact: Kevin Esping  
 Telephone: 253-261-0594  
 Fax: 360-886-2582  
 P.O. #:

The Equipment will be located at (subject to Section 4 on attached page):

TBD  
 BLACK DIAMOND  
 WA 98010

Customer hereby leases Equipment from ModSpace for a minimum period of 24 months (the "Minimum Lease Period") from the start of the lease term in accordance with the terms and conditions of this Lease Agreement including the terms and conditions set forth on the attached page (this "Lease"). Rental month is defined as a thirty-day period.

Customer agrees to pay ModSpace without demand and in advance the monthly rental and other charges on the due dates set forth in this Lease. The anticipated delivery date for the Equipment, subject to Section 3(c) on the attached page, will be on or about the 15th day of October, 2007.

Unit	Class	Width	Length	Serial No.	Monthly	Weekly	Daily	Insurance Value
653591	MULT	12'	60'	26151A	\$650.00	\$149.59	\$21.37	\$48,519
653592	MULT	12'	60'	26151B	\$650.00	\$149.59	\$21.37	\$48,519

ONE TIME CHARGES	
<b>DELIVERY</b>	
DELIVERY FUEL SURCHARGE	
(Qty: 2 at \$25.00)	\$50.00
BUILDING DELIVERY (Qty: 2 at \$374.00)	\$748.00
OPTIONAL EQUIPMENT (Qty: 2 at \$210.00)	\$420.00
<b>INSTALLATION</b>	
ANCHOR/TIE DOWN (Qty: 1 at \$1,300.00)	\$1,300.00
RAMP ASSEMBLY (Qty: 1 at \$1,276.00)	\$1,276.00
SET-UP COMPLEX (Qty: 1 at \$4,350.00)	\$4,350.00
INSTALL SKIRTING - VINYL	
(Qty: 1 at \$3,360.00)	\$3,360.00
<b>MODIFICATIONS</b>	
INSTALL PARTITION (LABOR)	
(Qty: 1 at \$531.00)	\$531.00
Installation of additional demount walls 8x6x8	
MODIFICATIONS LABOR (Qty: 1 at \$825.00)	\$825.00
<b>RETURN DELIVERY</b>	
BUILDING RETURN* (Qty: 2)	***
RETURN FUEL SURCHARGE* (Qty: 2)	***
OPTIONAL EQUIPMENT* (Qty: 2)	***
<b>DISMANTLING</b>	
REMOVE ANCHORS/TIEDOWNS* (Qty: 1)	***
UNSKIRT* (Qty: 1)	***
REMOVE RAMPS* (Qty: 1)	***
TEAR DOWN COMPLEX* (Qty: 1)	***

MONTHLY CHARGES	
COMPLEX	\$1,300.00
<b>RENTAL</b>	
RAMPS (Qty: 1 at \$390.00)	\$390.00
STEPS (Qty: 1 at \$35.00)	\$35.00
<b>Total</b>	\$1,725.00
Monthly Property Tax	\$23.64
Sales Tax(Monthly Lease Items)	\$148.65
<b>Grand Total(Monthly)</b>	\$1,897.29



LEASE AGREEMENT NO.: 383607

ACCOUNT NO.: 111564

CUSTOMER NO.: 166950

**RETURN EQUIPMENT TO ModSpace:**

SEATTLE  
 19432 EAST VALLEY HIGHWAY  
 KENT  
 WA 98032  
 Telephone: 253-395-0301  
 1-800-523-7918  
 Fax: 253-395-0235

(Continued)

REMOVE PARTITION (LABOR)* (Qty: 1)		DAILY:	\$42.74
	Total	WEEKLY:	\$299.18
	Sales Tax(One Time)		
	Grand Total(OneTime)		
			\$12,660.00
			\$1,076.08
			\$13,736.08

\* Billed at Termination  
 \*\* Billed at current rate at Termination

*†Tax rates will vary with delivery address. Taxes are subject to change by tax authorities without notice.*

No agent, employee or representative of ModSpace has any authority to make any representation or warranty concerning the Equipment that is not specifically included in this Lease. Unless specifically identified in this Lease, this Lease supersedes all prior negotiations, proposals and documents. This Lease will not be subject to any additional provision that may be contained in the Customer's purchase order, although Customer's purchase order number may be used by the parties as a convenient reference for invoicing purposes.

(012) Tax rates may vary dependent upon confirmation of final delivery address. Any adjustment to the Tax rate imposed by city, county, state, or federal government or other taxing authority subsequent to the date of ModSpace' quotation, proposal, or commencement date of the Lease will be reflected on Customer's Invoice. Customer is responsible for the payment of any increase in Taxes and such obligation supersedes any conflicting language contained in any Customer document.

(013) Any Value Added Products or services (including but not limited to holding tanks, ramps, security services) are products provided by a third party vendor. ModSpace will not be held responsible for the maintenance or servicing of such products. Customer will be responsible for any and all of the third party vendor's terms and conditions that typically govern the leasing and servicing of the equipment. The Customer understands that for their convenience ModSpace will coordinate the product or service and act as a billing agent for the third party vendor.

(014) ALL RIGHT, TITLE AND INTEREST OF MODULAR SPACE CORPORATION HEREUNDER HAS BEEN PLEDGED TO, AND IS SUBJECT TO THE SECURITY INTERESTS OF, BANK OF AMERICA, N.A., AS AGENT, PURSUANT TO THAT CERTAIN SECOND AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF MARCH 30, 2007, AMONG MODULAR SPACE CORPORATION, CERTAIN OF ITS SUBSIDIARIES PARTY THERETO AS EITHER BORROWER OR GUARANTOR, BANK OF AMERICA, N.A. AS AGENT, AND THE LENDERS FROM TIME TO TIME PARTY THERETO, AS AMENDED, RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME. MODULAR SPACE CORPORATION SHALL HAVE NO RIGHT TO TRANSFER ITS RIGHT, TITLE OR INTEREST HEREUNDER TO ANY PARTY EXCEPT PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE RELEVANT LOAN DOCUMENTS.

Comprehensive and Liability insurance coverage certificate must be received prior to delivery or Lessee will need to accept ModSpace Optional Insurance and/or Damage Waiver on ModSpace leases agreement prior to delivery.  
 Return delivery and dismantle will be billed at current rate at time of return unless otherwise quoted.

Pilot cars will be billed as required for 12' or 14' wide trailer @ 210.00 per unit on each delivery or return. Charges over a 25 mile radius will be charged on a per mile basis at \$1.75 per mile

Tiedowns/anchors not included and will be priced upon request.  
 Alterations will require an alteration permit through Washington State Department of Labor and Industries.  
 Set up is based on 1000psf soil bearing capacity.

Excessive cleaning and/or damage will be charged additionally at prevailing rates.  
 The Lessee is responsible for providing a level site that is accessible to standard mobile transport equipment.  
 Wait time or additional site time will be charged at \$75.00/hr. Additional charges may apply for labor time.

Property tax and sales tax will be charged additionally.  
 Customer is responsible for all taxes, permits, fees, licenses, utility connections, foundation engineering, and the preparation of a level, compact and accessible site.

\*CHARGES FOR RETURN FREIGHT, DISMANTLE, CLEANING, DAMAGE REPAIR, AND NON-RETURNED KEYS WILL BE CHARGED AT THE THEN CURRENT RATE AT THE TIME OF LEASE TERMINATION.  
 Steps not returned will be billed at \$700.00 per landing. Keys not returned will be charged \$75.00 per door





LEASE AGREEMENT NO.: 383607  
ACCOUNT NO.: 111564  
CUSTOMER NO.: 166950

**RETURN EQUIPMENT TO ModSpace:**

SEATTLE  
19432 EAST VALLEY HIGHWAY  
KENT  
WA 98032  
Telephone: 253-395-0301  
1-800-523-7918  
Fax: 253-395-0235

(Continued)

SECURITY INTERESTS OF, BANK OF AMERICA, N.A., AS AGENT, PURSUANT TO THAT CERTAIN SECOND AMENDED AND RESTATED CREDIT AGREEMENT, DATED AS OF MARCH 30, 2007, AMONG MODULAR SPACE CORPORATION, CERTAIN OF ITS SUBSIDIARIES PARTY THERETO AS EITHER BORROWER OR GUARANTOR, BANK OF AMERICA, N.A. AS AGENT, AND THE LENDERS FROM TIME TO TIME PARTY THERETO, AS AMENDED, RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME. MODULAR SPACE CORPORATION SHALL HAVE NO RIGHT TO TRANSFER ITS RIGHT, TITLE OR INTEREST HEREUNDER TO ANY PARTY EXCEPT PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE RELEVANT LOAN DOCUMENTS.

Comprehensive and Liability Insurance coverage certificate must be received prior to delivery or Lessee will need to accept ModSpace Optional Insurance and/or Damage Waiver on ModSpace leases agreement prior to delivery.

Return delivery and dismantle will be billed at current rate at time of return unless otherwise quoted.

Pilot cars will be billed as required for 12' or 14' wide trailer @ 210.00 per unit on each delivery or return. Charges over a 25 mile radius will be charged on a per mile basis at \$1.75 per mile

Tiedowns/anchors not included and will be priced upon request.

Alterations will require an alteration permit through Washington State Department of Labor and Industries.

Set up is based on 1000psf soil bearing capacity.

Excessive cleaning and/or damage will be charged additionally at prevailing rates.

The Lessee is responsible for providing a level site that is accessible to standard mobile transport equipment.

Wait time or additional site time will be charged at \$75.00/hr. Additional charges may apply for labor time.

Property tax and sales tax will be charged additionally.

Customer is responsible for all taxes, permits, fees, licenses, utility connections, foundation engineering, and the preparation of a level, compact and accessible site.

\*CHARGES FOR RETURN FREIGHT, DISMANTLE, CLEANING, DAMAGE REPAIR, AND NON-RETURNED KEYS WILL BE CHARGED AT THE THEN CURRENT RATE AT THE TIME OF LEASE TERMINATION.

Steps not returned will be billed at \$700.00 per landing. Keys not returned will be charged \$75.00 per door

Used equipment is sold "as-is", no warranty expressed or implied.

The attached page contains Terms and Conditions that form an integral part of this Lease. Those terms and conditions include but are not limited to disclaimers of warranties of merchantability and fitness and limitations on damages. The only other documents that form a part of this lease are: US20021216 NONE

Signed by duly authorized agents, with the intent to be legally bound, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By [Signature]  
Modular Space Corporation AUTHORIZED AGENT

By [Signature]  
CUSTOMER OR AUTHORIZED AGENT

Name RHONDA BANGHART

Name \_\_\_\_\_  
(please print)

Accepted and Del. By: \_\_\_\_\_  
Freight Vendor

Date: \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Received and Accepted By: \_\_\_\_\_  
Name: \_\_\_\_\_  
(please print)

Date: \_\_\_\_\_

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Resolution No. 08-544, authorizing the Mayor to execute Protective Service Agreements with Brinks Security.</b>	<b>Agenda Date: October 2, 2008</b>		<b>AB08-098</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Gwen Voelpel		
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Streepy		<b>X</b>
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson	<b>X</b>	
	Police –Chief Kiblinger		
Court – Kaaren Woods			
Cost Impact: \$177.46 + tax monthly, plus new City Hall installation one time fee of \$534.24			
Fund Source: Funding Agreement/Gen. Fund			
Timeline: ASAP			
<b>Attachments: Resolution No. 08-544, Exhibits A, B, C D and E</b>			
<b>SUMMARY:</b> Adoption of this resolution would approve the Protective Service Agreements along with the installation of equipment at the new City Hall office. Currently the City has four monitoring contracts with Brinks Security: <ol style="list-style-type: none"> <li>1. Court trailer @ \$ 42.49</li> <li>2. Police Department @ \$ 44.99</li> <li>3. Community Development and Public Works trailers @ \$ 47.49</li> <li>4. City Hall @ \$ 42.49</li> </ol>			
COMMITTEE REVIEW AND RECOMMENDATION:			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 08-544, authorizing the Mayor to execute Protective Service Agreements with Brinks Security.</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
October 2, 2008			

**RESOLUTION NO. 08-544**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON,  
AUTHORIZING THE MAYOR TO EXECUTE PROTECTIVE  
SERVICE AGREEMENTS WITH BRINKS SECURITY**

**WHEREAS**, the City of Black Diamond has determined the need to have alarm systems and monitoring services at the Court, Police Station, Community Development and Utilities Department along with the new City Hall building; and

**WHEREAS**, Brinks Security is willing and able to set up and install the security and monitoring systems and the City has used this same contractor and has been satisfied with their work;

**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 Protective Service Agreement's for the Court, Police, Community Development and City Hall buildings for a combined total of \$177.46 plus tax per month and a one time installation cost of \$534.24, as contained in forms attached hereto as Exhibit A, Exhibit B, Exhibit C, Exhibit D and Exhibit E.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING, THIS 2<sup>ND</sup> DAY OF OCTOBER, 2008.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Howard Botts, Mayor

Attest:

\_\_\_\_\_  
Brenda L. Streepy, City Clerk



# INSTALLATION WORK ORDER

TECH USE ONLY  
 Customer # \_\_\_\_\_  
 Prospect # \_\_\_\_\_  
 Job # \_\_\_\_\_  
 Aid # \_\_\_\_\_  
 Branch # 206  
 Ext. Serv. P.B.  
 Completed By \_\_\_\_\_

Business Name: City of Block Diamond Owner/Manager Name: Kevin Espino  
 Street: 243 Bl Roberts Drive #3 Installation Phone # (\_\_\_\_) \_\_\_\_\_  
 City: Block Diamond Home Phone # (\_\_\_\_) \_\_\_\_\_  
 County: King State: WA Zip: 98010 Cellular Phone # (253) 261-0594  
 Cross-Street: Union Drive Email: \_\_\_\_\_

Date Scheduled: \_\_\_\_\_  AM  PM SYSTEM TYPE: Premises  
 New Installation  Conversion  Takeover  Add  CSR Add  
 Move/STO  Move (Previous Address)  
 Building Style:  Split-Level  Multi-Story  Single Story  Existing  New Construction Square Feet: 2500  
 Basement:  Finished  Slab  Crawl Space Ceiling Height: \_\_\_\_\_  
 Attic/Ceiling:  Open  Drop Ceiling  Hard deck w/attic  Hard deck w/no attic ceiling Stories: \_\_\_\_\_  
 Flooring:  Tile/Hardwood  No Carpet  Full Carpet  Partial Carpet  
 Comments: \_\_\_\_\_

Initial here if you want the motion detector(s) LED's disabled.  
 Brink's Home Security® is providing the Protective Equipment to you subject to the terms and conditions of your Protective Service Agreement including Sections 6 through 8. You acknowledge that Brink's® has explained the full range of Brink's® equipment available and you have selected the equipment listed below.

PROTECTIVE EQUIPMENT	QTY	LOCATION*	Installation Fee*	(Promo Discount)	TOTAL*
Master Control with Standby Battery	①	TBD			
Keypad	①	TBD - back door -			
Motion Detector	①	Front office			
Audible Warning Device	①	TBD			
Door Sensors	③	front and back	199.00		199.00
360 Motion - CM360	1	Central			230.00
Admin 15.00					
<b>TOTAL FROM INSTALLATION WORK ORDER ADDENDUMS (if any)</b>					

\*Pricing and location quoted by a sales representative subject to approval of Brink's® technician and local authorities.  
 \*Additional \$500 fee required to purchase Protective Equipment.

Technician Comments: \_\_\_\_\_  
 Date/Time Started: \_\_\_\_\_  
 Date/Time Completed: \_\_\_\_\_  
 Date/Time Monitored: \_\_\_\_\_  
 Tech(s): \_\_\_\_\_  
 VRT Verify#: \_\_\_\_\_  
 Ops Rep: \_\_\_\_\_

1. SUBTOTAL	
2. ADJUSTMENT	
3. TOTAL	419.00
4. TAX	37.75
5. MONITORING (including Tax)	35.99
6. SERVICE PLAN (including Tax)	6.50
7. OPEN/CLOSE (including Tax)	
8. PERMIT - Alarm/Electric (incl. \$15 Admin fee when allowed)	10.00
9. TOTAL (Lines 3-7)	534.24
10. LESS PREPAY	
11. BALANCE DUE*	534.24

You accept the Brink's® Protective Equipment and acknowledge its placement, installation, demonstration and testing to your satisfaction.  
 PLEASE CHECK WITH POLICE AND LOCAL GOVERNMENT ON PERMIT REQUIREMENTS.  
 You also acknowledge that you are responsible for the charges as stated above.

Customer Signature(s): [Signature]  
 Printed Name: KEVIN ESPINO

BRINK'S BUSINESS SECURITY  
 a division of Brink's Home Security, Inc.  
 Sales Representative: [Signature] Date: 7-14-08  
 Printed Name: Paul Buchanan Source: SL Resp. Grp: 61675



Court

Exhibit B



PROTECTIVE SERVICE AGREEMENT (Business Premises)

117455862 Customer Number

This Agreement is made between Brink's Business Security, a division of Brink's Home Security, Inc. ("Brink's"), whose address is shown above, and

Black Diamond Municipal Court (Your or Customer's Name (Please Print))

25510 Lawson St. Black Diamond WA 98010 (Street & Number, City, State, Zip Code)

Phone Service Provider: Qwest Name of Service: Standard

Section 1. SERVICE: (a) Brink's will provide you with the service (the "Service") covered by this Protective Service Agreement. (b) Your Installation Work Order lists terms of standard protective equipment ("Standard Protective Equipment") and Brink's is furnishing to you under this Agreement. (c) The Service is subject to all terms and conditions of your entire agreement.

(e) You will pay any and all applicable taxes, use, service, priority or other fees in connection with Service, including the installation and monitoring of the Protective Equipment, and your purchase of Protective Equipment, if applicable. Section 3. INITIAL THREE-YEAR TERM AND RENEWAL TERMS: (a) You will make and pay for the Service during an initial term of three years commencing from the date Brink's makes the Protective Equipment operational.

Section 2. FEES: (a) You agree to pay Brink's the connection fee shown in the Installation Work Order for the Protective Equipment. (b) During the initial term of this Agreement, you will pay Brink's the following recurring fees: Monthly Monitoring Fee: \$35.99. You agree to pay this additional monthly fee for monitoring of [ ] (c) You agree to pay this additional monthly fee for selection of Extended Service Plan Coverage: \$6.50. Total Monthly Fee (including tax): \$

Section 4. CUSTOMER EMERGENCY INFORMATION SCHEDULE: (a) You are furnishing to Brink's and you will keep current a Customer Emergency Information Schedule on the form you have received from Brink's. (b) Brink's has no obligation to telephone any emergency agency or person other than the agency or person named in your most recent Customer Emergency Information Schedule furnished to Brink's.

(c) You agree to pay the Total Monthly Fee by check, money order, or DailyPay. If you prefer in any other than on a monthly basis, please indicate your choice: quantity per year.

Section 5. OWNERSHIP AND USE OF PROTECTIVE EQUIPMENT: (a) UNLESS YOU HAVE PAID AN ADDITIONAL FEE TO PURCHASE THE PROTECTIVE EQUIPMENT, YOU AGREE THAT BRINK'S IS THE OWNER OF THE PROTECTIVE EQUIPMENT AT ALL TIMES. (b) You may pay an additional charge at the time of installation to purchase the Protective Equipment.

EASYPAY AUTHORIZATION form with options for checking account transfer or automatic credit card charge. Includes fields for account number, card number, and expiration date.

(c) You will provide and maintain adequate light and power for installation and operation of the Protective Equipment. (d) You are responsible for complying with any local or other governmental ordinances or laws which may require any user of the Protective Equipment to obtain a license or permit. (e) You understand that some governments may impose fines or charges for any false alarm. (f) If Brink's reasonably determines that the Protective Equipment is generating an excessive number of false alarms or signals which may adversely affect Brink's monitoring facilities, Brink's may require you to pay a non-refundable surcharge fee for processing false alarms or signals or Brink's may terminate this Agreement.

THIS AGREEMENT CONSISTS OF SECTIONS 1 THROUGH 13 APPEARING ON THE FRONT AND REVERSE SIDE. YOU ACKNOWLEDGE THAT PRIOR TO SIGNING THIS AGREEMENT YOU RECEIVED, READ AND UNDERSTOOD A LEGIBLE, EXACT AND COMPLETELY FILLED-IN COPY OF THE AGREEMENT [INCLUDING THE DOCUMENTS LISTED IN SECTION 12(b)] AND THAT UPON SIGNING SUCH COPY WAS ALSO SIGNED BY BRINK'S. YOU FURTHER ACKNOWLEDGE THAT YOU UNDERSTAND SECTION 7 WHICH LIMITS BRINK'S LIABILITY AND THAT YOU MAY INCREASE BRINK'S LIMITATION OF LIABILITY BY PAYING AN ADDITIONAL CHARGE TO BRINK'S.

CUSTOMER: Black Diamond Municipal Court By: Kevin Esping, Facilities Manager, 1/16/08

BRINK'S BUSINESS SECURITY a division of Brink's Home Security, Inc. By: Loan Bell, Authorized Representative, Reg. No. DATE: 1/16/08

Police Exhibit C



PROTECTIVE SERVICE AGREEMENT (Business Premises)

2486801 Customer Number

This Agreement is made between Brink's Business Security, a division of Brink's Home Security, Inc. ("Brink's") whose address is shown above, and

Black Diamond Police Dept. (You or Customer) Name (Please Print)

Billing address if different from installation address: PO Box 309 Black Diamond WA 98010

Phone Service Provider: Name of Service:

Section 1. SERVICE: (n) Brink's will provide you with the service (the "Service") covered by this Protective Service Agreement. (h) Your Installation Work Order lists items of standard protective equipment ("Standard Protective Equipment") that Brink's is furnishing to you under this Agreement. (i) The Service is subject to all the terms and conditions of your entire agreement.

(m) The Protective Equipment is generating excessive false alarms. Section 4. CUSTOMER EMERGENCY INFORMATION SCHEDULE: (a) You are furnishing to Brink's and you will keep current a Customer Emergency Information Schedule on the form you have received from Brink's. (b) Brink's has no obligation to telephone any emergency agency or person other than the agency or person named in your most recent Customer Emergency Information Schedule furnished to Brink's.

Section 2. FEES: (a) You agree to pay Brink's the connection fee shown in the Installation Work Order for the Protective Equipment. (b) During the initial term of this Agreement, you will pay Brink's the following recurring fees: Monthly Monitoring Fee: 34.99. You agree to pay this additional monthly fee for monitoring of wireless components. You agree to pay this additional monthly fee for selection of Extended Service Plan Coverage described in Section 9(b) below. Total Monthly Fee (excluding tax): 3

Section 5. OWNERSHIP AND USE OF PROTECTIVE EQUIPMENT: (a) UNLESS YOU HAVE PAID AN ADDITIONAL FEE TO PURCHASE THE PROTECTIVE EQUIPMENT, YOU AGREE THAT BRINK'S IS THE OWNER OF THE PROTECTIVE EQUIPMENT AT ALL TIMES. (b) You may pay an additional charge at the time of installation to purchase the Protective Equipment, which will be separately itemized on the Installation Work Order. (c) You will provide a communication service capable of transmitting signals from the Protective Equipment, post legs space, adequate light and power for installation and operation of the Protective Equipment.

(c) You agree to pay the Total Monthly Fee by check, money order, or EasyPay. If you prefer to pay other than on a quarterly basis, please indicate your choice: one year, three years. (d) You will pay any and all applicable sales, use, service, property or other taxes in connection with Service, including the installation and monitoring of the Protective Equipment, and your purchase of Protective Equipment, if applicable.

(d) You are responsible for complying with any local or other governmental ordinances or laws which may require any user of the Protective Equipment to obtain a license or permit. (e) You understand that local governments may impose fines, or charges for any false alarm. YOU AGREE TO ASSUME ALL RESPONSIBILITY FOR ANY FALSE ALARM GIVEN BY THE PROTECTIVE EQUIPMENT. (f) If Brink's reasonably determines that the Protective Equipment is generating an excessive number of false alarms or signals which may adversely affect Brink's monitoring facilities, Brink's may require you to pay a reasonable surcharge for processing false alarms or signals or Brink's may terminate this Agreement. (g) You understand that any emergency agency named in your Customer Emergency Information Schedule may respond to false alarms or due to your non-compliance of any laws. YOU AGREE TO ASSUME ALL RESPONSIBILITY FOR ANY SUCH SUSPENSION OF RESPONSE. (h) COMMUNICATION OF SIGNALS: You acknowledge that signals from the Protective Equipment will be transmitted to the Brink's monitoring center over the telecommunication service that you provide.

Section 3. INITIAL THREE-YEAR TERM AND RENEWAL TERMS: (a) You will take and pay for the Service during an initial term of three years commencing from the date Brink's makes the Protective Equipment operational. (b) If the renewal fee is more than the initial or renewal fee you have been paying, Brink's will notify you of the new renewal fee at least 45 days before the initial or renewal term ends. (c) By notice to you, Brink's may terminate this Agreement if Brink's determines

THIS AGREEMENT CONSISTS OF SECTIONS 1 THROUGH 14 APPEARING ON THE FRONT AND REVERSE SIDE. YOU ACKNOWLEDGE THAT PRIOR TO SIGNING THIS AGREEMENT YOU RECEIVED, READ AND UNDERSTOOD A LEGIBLE, EXACT AND COMPLETELY FILLED-IN COPY OF THIS AGREEMENT (INCLUDING THE DOCUMENTS LISTED IN SECTION 12(a)) AND THAT UPON SIGNING SUCH COPY WAS ALSO SIGNED BY BRINK'S. YOU FURTHER ACKNOWLEDGE THAT YOU UNDERSTAND SECTION 7 WHICH LIMITS BRINK'S LIABILITY AND THAT YOU MAY INCREASE BRINK'S LIMITATION OF LIABILITY BY PAYING AN ADDITIONAL CHARGE TO BRINK'S.

CUSTOMER: Black Diamond Police Dept. By: Debbie McChaw Printed Name: Admin Asst. Date: 3-5-08 GUARANTOR: Printed Name: DATE:

BRINK'S BUSINESS SECURITY a division of Brink's Home Security, Inc. By: [Signature] Authorized Representative Reg. No. DATE: 08-05-08 If you were referred by an existing Brink's customer, please note the customer's name and phone number below. Referred by: Telephone:



**PROTECTIVE SERVICE  
AGREEMENT  
(Business Premises)**

CH-LIBRARY  
Exhibit D

118 230 275  
Customer Number

This Agreement is made between Brink's Business Security, a division of Brink's Home Security, Inc. ("Brink's") whose address is shown above, and

\_\_\_\_\_  
(You or "Customer") Name (Please Print)

Billing address if different from installation address:  
 Street & Number: E. 5th 599 City: BLACK DIAMOND County: WA State: WA Zip Code: 98008

Phone Service Provider: \_\_\_\_\_ Name of Service: \_\_\_\_\_

**Section 1. SERVICE:**

- (a) Brink's will provide you with the service (the "Service") covered by this Protective Service Agreement.
- (b) Your Installation Work Order lists items of standard protective equipment ("Standard Protective Equipment") that Brink's is furnishing to you under this Agreement. If you have agreed to have Brink's install additional Protective Equipment ("Additional Protective Equipment"), it is also listed in the Installation Work Order. As used in this Agreement, the term "Protective Equipment" means the Standard Protective Equipment and the Additional Protective Equipment.
- (c) The Service is subject to all the terms and conditions of your entire agreement (please see Section 12(a) for a list of what constitutes your entire agreement). As part of the Service, Brink's or one of its authorized contractors will install and make operational the Protective Equipment at the address listed in the Installation Work Order. When Brink's receives a signal indicating activation of the Protective Equipment (excluding CCTV products) at your installation address, Brink's will observe the procedures described in your Customer Emergency Information Schedule.

that the Protective Equipment is generating excessive false alarms.

**Section 4. CUSTOMER EMERGENCY INFORMATION SCHEDULE:**

- (a) You are furnishing to Brink's and you will keep current a Customer Emergency Information Schedule on the form you have received from Brink's. If you wish to make a change in your Customer Emergency Information Schedule, please call 1-800-874-1179.
- (b) Brink's has no obligation to telephone any emergency agency or person other than the agency or person named in your most recent Customer Emergency Information Schedule furnished to Brink's. YOU UNDERSTAND THAT BRINK'S DOES NOT REPRESENT OR PROMISE THAT ANYONE TELEPHONED BY IT WILL RESPOND TO THE CALL. YOU ALSO UNDERSTAND THAT BRINK'S DOES NOT MONITOR ANY CCTV PRODUCTS OR ACCESS CONTROL SYSTEMS AND THAT THE PROCEDURES SET FORTH IN THE CUSTOMER EMERGENCY INFORMATION SCHEDULE DO NOT APPLY TO ANY CCTV PRODUCTS OR ACCESS CONTROL SYSTEMS INSTALLED BY BRINK'S AT YOUR LOCATION.

**Section 2. FEES:**

- (a) You agree to pay Brink's the connection fee shown in the Installation Work Order for the Protective Equipment.
- (b) During the initial term of this Agreement, you will pay Brink's the following recurring fees:
  - Monthly Monitoring Fee: \$ 39.99
  - You agree to pay this additional monthly fee for monitoring of \_\_\_\_\_ (list equipment) \$ \_\_\_\_\_
  - You agree to pay this additional monthly fee for monitoring of \_\_\_\_\_ (if) wireless components \$ \_\_\_\_\_
  - You agree to pay this additional monthly fee for selection of Extended Service Plan Coverage described in Section 6(b) below (required for wireless and Primary Digital Radio service) \$ 7.99
  - Total Monthly Fee (excluding tax) \$ 47.97
- (c) You agree to pay the Total Monthly Fee by check, money order, or EasyPay. If you prefer to pay other than on a quarterly basis, please indicate your choice: one year three years
- (d) You will pay any and all applicable sales, use, service, property or other taxes in connection with Service, including the installation and monitoring of the Protective Equipment, and your purchase of Protective Equipment, if applicable.

**Section 5. OWNERSHIP AND USE OF PROTECTIVE EQUIPMENT:**

- (a) UNLESS YOU HAVE PAID AN ADDITIONAL FEE TO PURCHASE THE PROTECTIVE EQUIPMENT, YOU AGREE THAT BRINK'S IS THE OWNER OF THE PROTECTIVE EQUIPMENT AT ALL TIMES. You agree that this Agreement is not a lease. You will not attempt to remove or sell any of the Protective Equipment owned by Brink's. You agree that installation of the Protective Equipment does not create a fixture to your premises.
- (b) You may pay an additional charge at the time of installation to purchase the Protective Equipment, which will be separately itemized on the Installation Work Order.
- (c) You will provide a communication service capable of transmitting signals from the Protective Equipment, post free space, adequate light and power for installation and operation of the Protective Equipment. You will follow all of Brink's instructions regarding repair and use of the Protective Equipment, and you will not allow alteration of the Protective Equipment except in a manner approved in writing by Brink's.
- (d) You are responsible for complying with any local or other governmental ordinances or laws which may require any user of the Protective Equipment to obtain a license or permit. You also agree to pay Brink's for any fees Brink's is required to pay under laws in order to install or monitor the Protective Equipment in your location.
- (e) You understand that local governments may impose fines, or charges for any false alarm. YOU AGREE TO ASSUME ALL RESPONSIBILITY FOR ANY FALSE ALARM GIVEN BY THE PROTECTIVE EQUIPMENT. You will pay any false alarm charges and fees associated with reporting alarm signals, whether billed to you or Brink's.
- (f) If Brink's reasonably determines that the Protective Equipment is generating an excessive number of false alarms or signals which may adversely affect Brink's monitoring facilities, Brink's may require you to pay a reasonable surcharge fee for processing false alarms or signals or Brink's may terminate this Agreement.
- (g) You understand that any emergency agency named in your Customer Emergency Information Schedule may suspend response due to false alarms or due to your contravention of any laws. YOU AGREE TO ASSUME ALL RESPONSIBILITY FOR ANY SUCH SUSPENSION OF RESPONSE. You agree that any such suspension of response will not relieve you from payment of any fees required by this Agreement.
- (h) COMMUNICATION OF SIGNALS. You acknowledge that signals from the Protective Equipment will be transmitted to the Brink's monitoring center over the telecommunication service that you provide. This Protective Equipment will not operate with all communication services. Brink's will test compatibility at the time of installation and will notify you if changes are required. YOU AGREE TO ASSURE THAT THE COMMUNICATION SERVICE HAS BACKUP POWER. INTERRUPTION OF THE COMMUNICATIONS SERVICE (INCLUDING POWER LOSS TO THE COMMUNICATION SERVICE) WILL PREVENT SIGNAL TRANSMISSION. YOU UNDERSTAND THAT CHANGING YOUR COMMUNICATION SERVICE CAN PREVENT ALARM SIGNAL TRANSMISSION. YOU AGREE TO IMMEDIATELY NOTIFY BRINK'S OF ANY CHANGE IN YOUR COMMUNICATION SERVICE. THE PROTECTIVE EQUIPMENT WILL NOT OPERATE

**Section 3. INITIAL THREE-YEAR TERM AND RENEWAL TERMS:**

- (a) You will take and pay for the Service during an initial term of three years commencing from the date Brink's makes the Protective Equipment operational. (This obligation continues whether or not you remain the occupant of the installation address.) Thereafter, this Agreement will automatically continue for successive one-year renewal terms unless you or Brink's give written notice of cancellation to the other at least 30 days before the initial or renewal term ends. In New York, the renewal period is one month rather than one year.
- (b) If the renewal fee is more than the initial or renewal fee you have been paying, Brink's will notify you of the new renewal fee at least 45 days before the initial or renewal term ends. If your renewal fee reflects any increase over whatever fee you were most recently paying, you have the right to terminate this Agreement as provided in Section 3(a) above.
- (c) By notice to you, Brink's may terminate this Agreement if Brink's determines

**THIS AGREEMENT CONSISTS OF SECTIONS 1 THROUGH 14 APPEARING ON THE FRONT AND REVERSE SIDE. YOU ACKNOWLEDGE THAT PRIOR TO SIGNING THIS AGREEMENT YOU RECEIVED, READ AND UNDERSTOOD A LEGIBLE, EXACT AND COMPLETELY FILLED-IN COPY OF THIS AGREEMENT (INCLUDING THE DOCUMENTS LISTED IN SECTION 12(a)) AND THAT UPON SIGNING SUCH COPY WAS ALSO SIGNED BY BRINK'S. YOU FURTHER ACKNOWLEDGE THAT YOU UNDERSTAND SECTION 7 WHICH LIMITS BRINK'S LIABILITY AND THAT YOU MAY INCREASE BRINK'S LIMITATION OF LIABILITY BY PAYING AN ADDITIONAL CHARGE TO BRINK'S.**

CUSTOMER: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 GUARANTOR: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_

BRINK'S BUSINESS SECURITY  
 a division of Brink's Home Security, Inc.  
 By: \_\_\_\_\_  
 Authorized Representative Reg. No. \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 If you were referred by an existing Brink's customer, please note the customer's name and phone number below:  
 Referred by \_\_\_\_\_  
 (please print name, city, state)

This Agreement is made between Brink's Business Security, a division of COMMUNITY DEV. & PUBLIC WORKS shown above, and City of Black Diamond (You\* or "Customer") Name (Please Print)

Billing address if different from installation address:  
P.O. Box 599 BLACK DIAMOND, WA 98010  
 Street & Number City County State Zip Code

Phone Service Provider: Q WEST Name of Service: \_\_\_\_\_

**Section 1. SERVICE:**  
 (a) Brink's will provide you with the service (the "Service") covered by this Protective Service Agreement.  
 (b) Your Installation Work Order lists items of standard protective equipment ("Standard Protective Equipment") that Brink's is furnishing to you under this Agreement. If you have agreed to have Brink's install additional Protective Equipment ("Additional Protective Equipment"), it is also listed in the Installation Work Order. As used in this Agreement, the term "Protective Equipment" means the Standard Protective Equipment and the Additional Protective Equipment.  
 (c) The Service is subject to all the terms and conditions of your entire agreement (please see Section 12(a) for a list of what constitutes your entire agreement). As part of the Service, Brink's or one of its authorized contractors will install and make operational the Protective Equipment at the location listed in the Installation Work Order. When Brink's receives a signal indicating activation of the Protective Equipment (excluding CCTV products) at your installation address, Brink's will observe the procedures described in your Customer Emergency Information Schedule.

**Section 3. INITIAL THREE-YEAR TERM AND RENEWAL TERMS:**  
 (a) You will take and pay for the Service during an initial term of three years commencing from the date Brink's makes the Protective Equipment operational. (This obligation continues whether or not you remain the occupant of the protected location.) Thereafter, this Agreement will automatically continue for successive one-year renewal terms unless you or Brink's give written notice of cancellation to the other at least 30 days before the initial or renewal term ends. In New York, the renewal period is one month rather than one year.  
 (b) If the renewal fee is more than the initial or renewal fee you have been paying, Brink's will notify you of the new renewal fee at least 45 days before the initial or renewal term ends. If your renewal fee reflects any increase over whatever fee you were most recently paying, you have the right to terminate this Agreement as provided in Section 3(a) above.  
 (c) By notice to you, Brink's may terminate this Agreement if Brink's determines that the Protective Equipment is generating excessive false alarms.

**Section 2. FEES:**  
 (a) You agree to pay Brink's the connection fee shown in the Installation Work Order for the Protective Equipment.  
 (b) During the initial term of this Agreement, you will pay Brink's the following recurring fees:  
 <sup>initial</sup> Monthly Monitoring Fee: \$7.99  
 <sup>initial</sup> You agree to pay this additional monthly fee for monitoring of 1 (last equipment) \$5.00  
 <sup>initial</sup> You agree to pay this additional monthly fee for monitoring of 1 (#) wireless components. \$5.00  
 <sup>initial</sup> You agree to pay this additional monthly fee for selection of Extended Service Plan Coverage described in Section 6(b) below. (required for wireless and Primary Digital Radio service) \$1.50  
 Total Monthly Fee (excluding tax): \$17.49

**Section 4. CUSTOMER EMERGENCY INFORMATION SCHEDULE:**  
 (a) You are furnishing to Brink's and you will keep current a Customer Emergency Information Schedule on the form you have received from Brink's. If you wish to make a change in your Customer Emergency Information Schedule, please call 1-800-874-1179.  
 (b) Brink's has no obligation to telephone any emergency agency or person other than the agency or person named in your most recent Customer Emergency Information Schedule furnished to Brink's. YOU UNDERSTAND THAT BRINK'S DOES NOT REPRESENT OR PROMISE THAT ANYONE TELEPHONED BY IT WILL RESPOND TO THE CALL. YOU ALSO UNDERSTAND THAT BRINK'S DOES NOT MONITOR ANY CCTV PRODUCTS AND THAT THE PROCEDURES SET FORTH IN THE CUSTOMER EMERGENCY INFORMATION SCHEDULE DO NOT APPLY TO ANY CCTV PRODUCTS INSTALLED BY BRINK'S AT YOUR LOCATION.

(c) You agree to pay the Total Monthly Fee by check, money order, or EasyPay. If you prefer to pay other than on a monthly basis, please indicate your choice:  
 \_\_\_\_\_ quarterly \_\_\_\_\_ one year \_\_\_\_\_ three years  
 (d) You will pay any and all applicable sales, use, service, property or other taxes in connection with Service, including the installation and monitoring of the Protective Equipment, and your purchase of Protective Equipment, if applicable.

**Section 5. OWNERSHIP AND USE OF PROTECTIVE EQUIPMENT:**  
 (a) UNLESS YOU HAVE PAID AN ADDITIONAL FEE TO PURCHASE THE PROTECTIVE EQUIPMENT, YOU AGREE THAT BRINK'S IS THE OWNER OF THE PROTECTIVE EQUIPMENT AT ALL TIMES. You agree that this Agreement is not a lease. You will not attempt to remove or sell any of the Protective Equipment owned by Brink's. You agree that installation of the Protective Equipment does not create a fixture to your premises.  
 (b) You may pay an additional charge at the time of installation to purchase the Protective Equipment, which will be separately itemized on the Installation Work Order.  
 (c) You will provide pest free space, adequate light and power for installation and operation of the Protective Equipment. You will follow all of Brink's instructions regarding repair and use of the Protective Equipment, and you will not allow alteration of the Protective Equipment except in a manner approved in writing by Brink's.  
 (d) You are responsible for complying with any local or other governmental ordinances or laws which may require any user of the Protective Equipment to obtain a license or permit. You also agree to pay Brink's for any fees Brink's is required to pay under laws in order to install or monitor the Protective

**EASYPAY AUTHORIZATION**

Section 2 (e) Brink's EasyPay: You hereby authorize \_\_\_\_\_ (print name of financial institution chosen for direct debit) to make recurring automatic debit withdrawals in the amount shown in Section 2(b) (plus applicable taxes) at the frequency shown in Section 2(c). Payments will go to Brink's from the following checking or credit card account you have chosen:

Option 1 - Checking Account Transfer  
 Bank or Financial Institution Routing Number (Located on bottom left of check) \_\_\_\_\_  
 Account Number (located on bottom of check) \_\_\_\_\_

Option 2 - Automatic Credit Card Charge Visa MasterCard Credit Card Number \_\_\_\_\_  
 Expiration Date - MM \_\_\_\_\_ DD \_\_\_\_\_ YY \_\_\_\_\_  
 (# available)

Brink's will notify you of the exact day and amount of recurring withdrawals. You understand that, at any time, you may change your EasyPay account selection or terminate EasyPay by calling Brink's at 1-800-874-1179 at least twenty (20) days in advance of your next scheduled collection date. Changing an EasyPay account selection will require completion of a new EasyPay form. Termination of EasyPay will not affect the other provisions and terms of this Agreement.

Customer Signature: \_\_\_\_\_ (signature required for enrollment) Printed Name: \_\_\_\_\_

**THIS AGREEMENT CONSISTS OF SECTIONS 1 THROUGH 14 APPEARING ON THE FRONT AND REVERSE SIDE. YOU ACKNOWLEDGE THAT PRIOR TO SIGNING THIS AGREEMENT YOU RECEIVED, READ AND UNDERSTOOD A LEGIBLE, EXACT AND COMPLETELY FILLED-IN COPY OF THE AGREEMENT (INCLUDING THE DOCUMENTS LISTED IN SECTION 12(a)) AND THAT UPON SIGNING SUCH COPY WAS ALSO SIGNED BY BRINK'S. YOU FURTHER ACKNOWLEDGE THAT YOU UNDERSTAND SECTION 7 WHICH LIMITS BRINK'S LIABILITY AND THAT YOU MAY INCREASE BRINK'S LIMITATION OF LIABILITY BY PAYING AN ADDITIONAL CHARGE TO BRINK'S.**

CUSTOMER: City of Black Diamond  
 By: Brandi L. Stroup By: [Signature] Authorized Representative Reg. No. \_\_\_\_\_  
 Printed Name: Brandi L. Stroup  
 Title: City Clerk DATE: 12-11-07  
 Date: 12/11/07  
 GUARANTOR: \_\_\_\_\_ Referred by \_\_\_\_\_ (please print name, city, state)  
 Printed Name: \_\_\_\_\_ Telephone (\_\_\_\_\_) \_\_\_\_\_  
 DATE: \_\_\_\_\_

BRINK'S BUSINESS SECURITY  
 a division of Brink's Home Security\*, Inc.

If you were referred by an existing Brink's customer, please note the customer's name and phone number below: