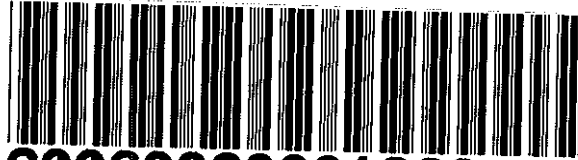


WHEN RECORDED RETURN TO:

NAME: Peter G. Ramels
ADDRESS: W 400 King County Courthouse
516 Third Avenue
Seattle, WA 98105



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PAGE 001 OF 015
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KING COUNTY, WA

DOCUMENT TITLE(s)

1. Interlocal Cooperation Agreement
- 2.
- 3.
- 4.

STEWART TITLE
2004972 by (15)

REFERENCE NUMBER(s) OF DOCUMENTS ASSIGNED OR RELEASED:

Additional numbers on page _____ of document

GRANTOR(s):

1. King County
- 2.
- 3.

Additional names on page _____ of document

GRANTEE(s):

1. City of Black Diamond
- 2.
- 3.

Additional names on page _____ of document

The Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

INTERLOCAL COOPERATION AGREEMENT BETWEEN KING COUNTY
AND THE CITY OF BLACK DIAMOND FOR
OPEN SPACE ACQUISITION PROJECTS

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between
the CITY OF BLACK DIAMOND ("City") and KING COUNTY ("County").

Article I. Recitals

The County desires to contribute funding in the amount of \$492,401 to the Ginder Creek Open Space Acquisition project from the Conservation Futures Fund, which consists of conservation future tax levy funds collected through the tax levy upon all taxable property in King County authorized by RCW 84.34.230. This contribution is in addition to the \$607,599 that was appropriated from the Jones Lake project, for a total contribution of \$1.1 million to the Ginder Creek Open Space Acquisition project. The King County Council, by Ordinance 15291, has authorized the King County Executive to enter into this interlocal cooperation agreement with the City in order to carry out the Ginder Creek Open Space Acquisition project.

In addition, the Open Space Citizen Advisory Committee, which makes recommendations on the allocation of a portion of the Conservation Futures Fund, has recommended an allocation of \$50,000 to the Black Diamond In-City Forest Land Acquisition project following notification to the suburban cities that funds were available, provision of an opportunity for the suburban cities to respond and receipt by the committee of requests for funding, all pursuant to K.C.C. ch. 26.12. King County's Conservation



Futures Fund contribution to this acquisition will be matched by money obtained by the City from Plum Creek. The King County Council, by ordinance 15083, has approved the recommendation for the allocation of Conservation Future Levy funds to the Black Diamond In-City Forest Land Acquisition project, and by Ordinance 15291, has authorized the King County Executive to enter into this interlocal cooperation agreements with City in order to carry out this project.

In addition, the County desires to contribute additional funding of \$70,000 from the Conservation Futures Levy Fund to the Black Diamond In-City Forest Land Acquisition project. The King County Council, by ordinance 15291, has authorized the King County Executive to enter into this interlocal cooperation agreement with City in order to make this contribution.

Pursuant to Washington Statute Chapter 39.34, the parties agree to follows:

Article II. Definitions

The following definition shall apply to this Agreement.

2.1 Open Space

The term "open space" or "open space land" means: (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly; or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply; or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the



value to the public of abutting or neighboring parks, forests, wildlife reserves, natural reservations or sanctuaries or other open space, or (v) enhance recreational activities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land of not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farms and agricultural conservation under subsection (8) of RCW 84.34.020. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b) (iii) of this subsection for the purpose of promoting conservation of wetlands.

2.2 Projects

The term "Projects" means the Ginder Creek Open Space Acquisition project for the approximately twenty-seven acres of land described in Exhibit A to this Agreement and incorporated herein by this reference, to be funded from the Conservation Futures Fund, and the Black Diamond In-City Forest Land project described in Exhibit A to be funded from the Conservation Futures Fund.

2.3 Conservation Futures

The term "Conservation Futures" means developmental rights which may be acquired by purchase, gift, grant, bequest, devise, lease or otherwise, except by eminent domain, and may consist of fee simple or any lesser interest, development right, easement,

covenant, or other contractual right necessary to protect, preserve, maintain, improve restore, limit future use of, or otherwise conserve open space land, all in accordance with the provisions of Washington Statute Chapter 84.34 RCW.

Article III. Purpose of the Agreement

The purpose of this agreement is to create a cooperative arrangement between the City and the County relating to the Projects and to define the terms and conditions governing both parties' obligations created by this agreement.

Article IV. Term of Agreement

This agreement shall be continued in full force and effect and binding upon the parties hereto upon execution of the agreement by both parties. The terms of the agreement shall be indefinite. The agreement will be terminated if the City is unable or unwilling: 1) to expend the funds provided through this agreement; 2) to satisfy the matching requirements for the Black Diamond In-City Forest Land Acquisition project contained in this agreement; and 3) upon reimbursement by the City to the County of all unexpended funds provided by the County pursuant to this agreement in the manner and amounts described below.

Article V. Conditions of Agreement

Section 5.1 -- Project Descriptions. Funds available pursuant to this agreement may be used only for Projects listed in Exhibit A, which is incorporated herein by reference, or such substituted Projects as may be approved by the County as set forth below. All County funded Projects must meet open space criteria as described in K.C.C. ch. 26.12 and RCW 84.34.020.

Section 5.2 -- Use of Funds. Funds provided to the City pursuant to this agreement as well as funds provided by the City as match pursuant to this agreement may be used only for expenses related to property acquisition. Those expenses include appraisals, title searches, negotiations, administrative overhead, and the cost of actual acquisition or purchase options. Funds utilized pursuant to this agreement may not be used to purchase land obtained through the exercise of eminent domain.

Section 5.3 -- Substitution/Deletion of Projects. If the City does not proceed with the Projects described in Section 6.1 of this agreement, the City may reimburse the County all funds provided in good faith to acquire the property for open space, plus accrued interest earnings on the unexpended balance. Alternatively, the City may submit specific requests for project reprogramming to the County for its approval. All projects proposed for reprogramming must meet open space criteria as described in K.C.C. ch. 26.12 and RCW 84.34.020. A proposal to reprogram Conservation Futures Fund money from the Ginder Creek Open Space Acquisition project must be approved by the King County Council. A proposal to reprogram Conservation Futures Fund money from the Black Diamond In-City



Open Space Acquisition Interlocal

Open Space project must be submitted for recommendation by the County's Citizens Oversight Committee or its successor and be approved by action of the King County Council. All reprogramming requests shall be submitted to the County's Department of Natural Resources, Capital Projects and Open Space Acquisition Section, or its successor.

Section 5.4 -- Eminent Domain. If any Project requires the exercise of eminent domain to acquire the property, all funds provided pursuant to this agreement plus accrued interest on such funds shall be reprogrammed as provided in this agreement or repaid to the County.

Article VI. Responsibilities of the City

Section 6.1 -- Matching Requirements. The Black Diamond In-City Open Space Acquisition project funded by Conservation Futures Levy proceeds shall be supported by the City with a matching contribution which is no less than the amount of Conservation Futures Levy funds allocated to the Project. This contribution may be in the form of cash from the City or from another entity as arranged by the City, land trades with a valuation verified by an appraisal conducted by a MIA certified appraiser, or credits for other qualifying open space acquired on or after January 1, 1989. Any City match, other than cash, shall require County approval. County approval and County acceptance of the City's match will be transmitted in writing to the City by the County's Manager of the Capital Projects and Open Space Acquisition Section or their successor in functions.

Such matching contribution must be made at the closing of the acquisition of the Black Diamond In-City Forest Land. If such contribution is not made, the County shall be released from any obligation to fund the Project in question, and the City shall reimburse the County all funds provided to the City pursuant to this agreement plus accrued interest on such funds. All such moneys will be available to the County to reallocate to other approved Projects. By appropriate legislature action taken not more than 60 days following the effective date of this agreement, the City shall commit to contribute its required match.

Section 6.2 -- Project Description. As part of the application to receive Conservation Futures Levy funds from the County, the City shall submit the following information concerning each project: 1) a narrative description of the project; 2) a description of the specific uses for Conservation Futures Levy funds in the Project; and 3) a description of the means by which the City will satisfy the matching requirements contained in this agreement.

Section 6.3 -- Reporting. All funds received pursuant to this agreement and accrued interest therefrom will be accounted for separately from all other City funds, accounts and moneys. Until the property described in the Project is acquired and all funds provided pursuant to this agreement expended, the City shall provide semi-annual written reports to the County within 30 days of the end of each relevant time period. The semi-annual report shall contain the following information: a) an accounting of all cash expenditures and encumbrances for support of the Project; b) the status of each Project and any changes to the



approved time line; and c) other relevant information requested by the County for the purpose of determining compliance with this agreement.

Following acquisition of the property and expenditure of all funds provided pursuant to this agreement, the City shall provide the County with a final report, within 90 days of the end of the calendar year in which all funds were expended. Said report shall contain a summary of all project expenditures, a description of the project status and accomplishments and other relevant information requested by the County for the purpose of verifying compliance with this agreement.

The City shall also provide the County, within 90 days of the end of each calendar year, annual reports which specify any change in the status of the Project during the prior year and any change in the status of the Project which the City reasonably anticipates during the ensuing year. Such reports shall be required only if a change has taken place or is anticipated, except as provided above for ongoing and final project reports. All such reports shall be submitted to the County's Department of Natural Resources, Capital Projects and Open Space Acquisition Section, or its successor.

Section 6.4 -- Disposition of Remaining Funds.

If the City does not expend all funds provided through this agreement and no substitute project is requested or approved as to the excess funds as authorized by Section 5.3, such funds shall be refunded to the County. For purposes of this section, "funds" shall include all moneys provided by the county plus interest accrued by the City on such moneys.

Section 6.5 -- Maintenance in Perpetuity. The City, and any successor in interest, agree to maintain properties acquired with funds provided pursuant to this agreement as open space in perpetuity. If the City changes the status or use of properties acquired with funds provided pursuant to this agreement to any purpose, the City shall pay the County an amount in cash to be mutually determined or substitute other property acceptable to the County. In either case, the value of the property shall be established at the time of the change in status or use, based upon the changed status or use and not based on its value as open space.

Upon changes in status and/or use of the property acquired herein, at its own cost, the City will provide the County an independent MIA appraisal in accordance with this section. The value established by the appraisal will not be binding on the County. The City shall provide the County with written notice prior to the change of use and shall reimburse the County within 90 days of such notification. Reimbursement not received within 90 days will accrue interest at the then legal rate.

Article VII. Responsibilities of the County

Section 7.1 -- Conservation Futures Levy Funds. Subject to the terms of this agreement, the County will provide Conservation Futures Levy funds for the Projects in the amount shown in Exhibit A. The City may request additional funds; however, the County has no obligation to provide Conservation Futures funds to the City in excess of the amount



shown in Exhibit A. The County assumes no obligation for future support of the Projects described herein except as expressly set forth in this agreement.

Section 7.2 – Ginder Creek Open Space. The County will also provide \$607,599 in additional funds for acquiring the Ginder Creek Open Space project that are not being acquired with Conservation Futures funds, for a total County contribution of \$1.1 million to the project. This additional \$607,599 is not from the Conservation Futures Levy Fund.

Article VIII Other Provisions

Section 8.1 -- Hold Harmless and Indemnification.

A. The County assumes no responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of the City, its employees, contractors or others by reason of this agreement. The City shall protect, indemnify and save harmless the County, its officers, agents and employees from any and all claims, cost and whatsoever occurring or resulting from: 1) the City's failure to pay any compensation, fees, wages, benefits or taxes; and 2) the supplying to the City of works services, materials or supplies by City employees or agents or other contractors or suppliers in connection with or in support of performance of this agreement.

B. The City further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception, which occurs due to the



negligent or intentional acts or failure for any reason to comply with the terms of this agreement by the City, its officer, employees, agent or representatives.

C. The City shall protect, indemnify and save harmless the County from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees or agents. For purpose of this agreement only, the City agrees to waive the immunity granted it for industrial insurance claims pursuant to Washington Statute Chapter 51 to the extent necessary to extend its obligations under this paragraph to any claim, demand, or cause of action brought by or on behalf of any employee, including judgments, awards and costs arising therefrom including attorney's fees.

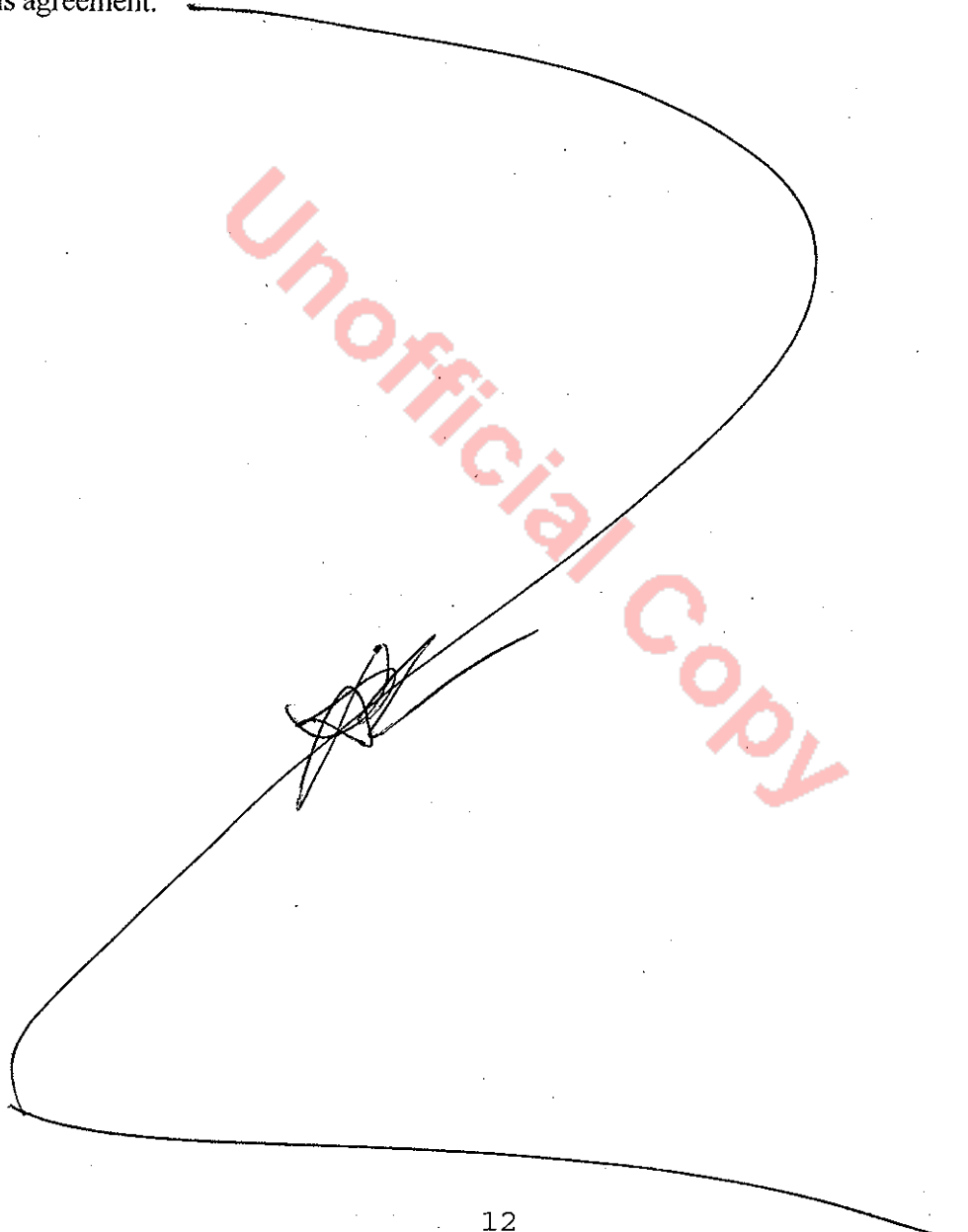
Section 8.2 -- Amendment. The parties reserve the right to amend or modify this agreement. Such amendments or modifications must be by written instrument signed by the parties and approved by the respective City and County Councils.

Section 8.3 -- Contract Waiver. No waiver by either party of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this agreement. No waiver shall be effective unless made in writing.

Section 8.4 -- Entirety. This agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This




agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the projects and constitutes the entire agreement between the parties. The parties recognize that time is of the essence in the performance of the provisions of this agreement.




Unofficial Copy

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces put forth below:

KING COUNTY


Ron Sims
King County Executive

CITY OF BLACK DIAMOND



Howard Botts
Mayor

Date: 11-30-2005
Acting under the authority of
Ordinance 15291


Date: 12-14-05

Approved as to form:

Attested by:

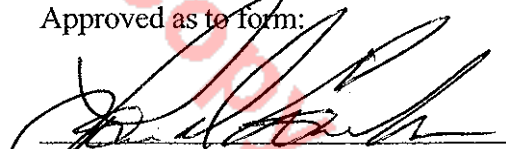


Norm Maleng
King County Prosecuting Attorney



Cris Kandor JASON M PAULSEN FOR
City Clerk

Approved as to form:



Loren Combs
Black Diamond City Attorney

EXHIBIT A

CITY OF BLACK DIAMOND
CONSERVATION FUTURES ALLOCATIONS & PROJECT DESCRIPTION

<u>PROJECT NAME</u>	<u>AMOUNT</u>
Ginder Creek Open Space	\$492,401
Black Diamond In-City Forest Land	\$120,000

PROJECT DESCRIPTION:

Ginder Creek Open Space: Acquisition of critical habitat within the city limits for Black Diamond. The property will provide much needed open space and protection within the city and provide additional linkages to other important open space and trails within Black Diamond.

Black Diamond In-City Forest Land. This project ^{INCLUDES} ~~consists of~~ the acquisition of timber harvest rights on a 50-acre property identified in the Black Diamond Urban Growth Agreement as "In-city forest land." The property is located near Lawson Road, east of State Route 169 on the eastern boundary of the city. The parcel is part of an open space link between the Black Diamond city center and the Green River Gorge. It contains an old rail bed that, if acquired in the future, could be used as a trail that links the city with the Green River Gorge. The Citizens Advisory Committee recommends that the city negotiate with the landowner to gain trail rights-of-way through the property to meet its stated goal of providing trail access from the City to the Green River Gorge area. Such trail access was discussed, but was not actually proposed for purchase in the application. R PAR

