

RESOLUTION NO. 24-1604

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT 1 OF THE FUNDING AGREEMENT WITH THE KING COUNTY FLOOD CONTROL DISTRICT FOR THE COVINGTON CREEK CULVERT REPLACEMENT PROJECT

WHEREAS, the King County Flood Control District executed a funding agreement with the City to cover costs of the Covington Creek Culvert Replacement project; and

WHEREAS, changes in the scope of work have increased estimated costs for the project; and

WHEREAS, Public Works staff coordinated with the Flood Control District outlining the increase in estimated costs along with a request for more funding; and

WHEREAS, the Flood Control District authorized an increase for this project in the amount of \$475,000; and

WHEREAS, both the Flood Control District and the City will need to execute Amendment 1 to the funding agreement to officially commit the additional funds;

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

Section 1. The City Council hereby accepts additional funding in the amount of \$475,000 from the King County Flood Control District for the Covington Creek Culvert Replacement project.

Section 2. The Mayor is hereby authorized to execute Amendment 1 to the funding agreement with the King County Flood Control District for the Covington Creek Culvert Replacement project.

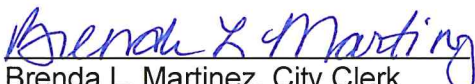
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF FEBRUARY, 2024.

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

Attest:



Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO AGREEMENT
COVINGTON CREEK CULVERT REPLACEMENT PROJECT
BETWEEN THE KING COUNTY FLOOD CONTROL ZONE DISTRICT AND THE CITY OF BLACK DIAMOND**

THIS AMENDMENT NO. 1 to the Agreement Regarding the Covington Creek Culvert Replacement Project ("Amendment No. 1") is entered into on the last date signed below, by and between the CITY OF BLACK DIAMOND, a Washington municipal corporation ("City"), and KING COUNTY FLOOD CONTROL ZONE DISTRICT, a quasi-municipal corporation of the State of Washington ("District") (collectively, the "Parties").

RECITALS

- A. Pursuant to FCD Resolution FCD2021-03.1, the Parties entered into an Agreement regarding the COVINGTON CREEK CULVERT REPLACEMENT PROJECT ("Agreement") effective March 09, 2021.
- B. The Agreement authorized the City to replace three failing culverts between Lake Sawyer and Covington Creek underneath 224th Avenue SE with a bridge which will allow for better salmon passage and eliminate risks to the roadway due to the chokepoint created by the culverts. The Agreement covers work necessary to design and construct the project, including but not limited to, City project management, consultant project management, surveying, site assessment and data collection, coordination with other agencies franchise utilities and stakeholders, hydrologic and hydraulic modeling, environmental documentation, permit coordination, public involvement/outreach, engineering reports, preliminary/conceptual design, cost estimate, and construction (the "Project").
- C. The Project is located where Lake Sawyer empties into Covington Creek through three failing culverts underneath 224th Avenue SE.
- D. As set out in the Agreement, the District agreed to reimburse the City for its actual costs incurred in completing the tasks described in the Agreement up to a maximum allowable reimbursement amount of \$2,293,500. Since the Agreement's execution, the City identified increased costs necessary to perform the scope of work set out in the Agreement. The City has determined that the maximum allowable reimbursement amount authorized by the Agreement will be insufficient to reimburse the City for its estimated actual costs incurred to effectuate the Project.
- E. The City presented the District with a revised estimate of project costs and associated request for an increase in funding for the Project by \$475,000.
- F. The District adopted Resolution FCD2023-10 on November 14, 2023, authorizing a continued partnership with the City for the Project, and increasing funding for the Project by \$475,000 for a new total Project budget of \$2,768,500 (including all monies paid prior to the adoption of Resolution FCD2023-10).
- G. The parties desire to amend the Agreement to incorporate the additional funding allocation and associated terms.

AMENDMENT

NOW THEREFORE, in consideration of the mutual interest, desire, and promises of the parties and other good and valuable consideration, the Parties agree as follows:

Recitals Incorporated. All recitals above are hereby incorporated in and ratified as part of this Amendment No. 1.

Amendment. Section 7, Project Costs and Expenses, of the Agreement is amended to increase the maximum reimbursement for City costs and expenses from \$2,293,500 to \$2,768,500, which amount is intended to compensate the City for those reasonable City costs and expenses for the Project described in the Agreement, as amended. This new total maximum reimbursement amount applies to all costs and expenses paid to the City prior to this Amendment, as well as work subsequent thereto.

IN WITNESS WHEREOF the Parties have executed this Amendment No. 1, which shall become effective on the last date signed below.

KING COUNTY FLOOD CONTROL ZONE DISTRICT CITY OF BLACK DIAMOND

By: _____
Reagan Dunn, Chair
Date: _____

By: Carol Benson
Carol Benson, Mayor
Date: 2/2/24

APPROVED AS TO FORM:

By: _____
Charlotte Archer, District Legal Counsel
Date: _____

APPROVED AS TO FORM:

By: _____
_____, City Attorney
Date: _____