



**CITY OF BLACK DIAMOND**  
**December 18, 2014 Regular Business 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 360-886-5700. Thank you for attending.

**PUBLIC HEARINGS:**

**APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:**

**Presentation – Recognition of Planning Commission Chair**

Mayor Benson

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- |   |                 |
|---|-----------------|
| 1) <b>AB14-123</b> – Ordinance Amending 2015 Salary Schedule                                | Ms. Miller      |
| 2) <b>AB14-124</b> – Ordinance Adopting Pass-Through KC Metro 2015 Sewer Rate Increase      | Ms. Miller      |
| 3) <b>AB14-125</b> – Resolution Accepting Grant Funds for the Roberts Dr. Project           | Mr. Boettcher   |
| 4) <b>AB14-126</b> – Resolution Authorizing Agreement with AHBL, Inc.                       | Mr. Nix         |
| 5) <b>AB14-127</b> – Ordinance Amending BDMC re: Comprehensive Plan Amendment Process       | Mr. Nix         |
| 6) <b>AB14-128</b> – Resolution Authorizing 2nd Addendum to ILA with Auburn for IT Services | Ms. Martinez    |
| 7) <b>AB14-129</b> – Ordinance Adopting Public Defender Standards                           | Mr. Kelly       |
| 8) <b>AB14-130</b> – Resolution Authorizing Agreement with the Accelerant Group             | Chief Kiblinger |

**DEPARTMENT REPORTS:**

**MAYOR’S REPORT:**

**COUNCIL REPORTS:**

A. Council Standing Committees and Regional Committees

- Councilmember Benson - Budget, Finance, Administration Committee; South County Area Transportation Board SCATBd); South East Area Transportation Solutions (SEATS) Coalition; Mental Illness and Drug Dependency Oversight Committee
- Councilmember Edelman - Planning and Community Service Committee; Public Issues Committee (PIC)

- Councilmember Deady - Cemetery and Parks Committee; Growth Management Planning Council (GMPC)
- Councilmember Taylor, Chair - Public Works Committee; Public Safety Committee
- Councilmember Morgan - Water Resource Inventory Area Committee (WRIA 9)

**ATTORNEY REPORT:**

**PUBLIC COMMENTS:**

**CONSENT AGENDA:**

**9) Claim Checks** – December 18, 2014, No. 41679 through No. 41736 in the amount of \$335,299.65

**10) Payroll Checks** – November 30, 2014 No. 18456 through No. 18474 (void No. 18463 and ACH Pay in the amount of \$246,8181.39

**11) Minutes** – Special Council Meeting of December 1, 2014 and Council Meeting of December 4, 2014

**EXECUTIVE SESSION:** To discuss with Legal Counsel pending litigation pursuant to RCW 42.30.110(1)(i)

**ADJOURNMENT:**

# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b>  <b>AB14-123</b>  <b>Ordinance No. 14-1043, amending 2015 Salary Schedule</b>  Cost Impact (see also Fiscal Note): 0 Fund Source: N/A Timeline: 2015	<b>Agenda Date: December 18, 2014</b>		<b>AB14-123</b>
	Mayor Carol Benson		
	City Administrator		
	City Attorney Carol Morris		
	City Clerk – Brenda L. Martinez		
	Com Dev/Nat Res – Aaron Nix		
	Finance – May Miller		<b>X</b>
	MDRT/Eco Dev – Andy Williamson		
	Police – Chief Kiblinger		
	Public Works – Seth Boettcher		
Court – Stephanie Metcalf			

**Agenda Placement:**  Mayor  Two Councilmembers  Committee Chair  City Administrator

**Attachments: Ordinance No. 14-1043, Exhibit-A Salary Schedule for 2015**

**SUMMARY STATEMENT:**

The 2015 Salary Schedule needs to be amended to update the Police Commander Salary line to the actual amount adopted by Ordinance 13-1018 in December 2013. This is a technical correction to update the Schedule to the actual amount adopted.

**FISCAL NOTE (Finance Department):** There is no fiscal impact, as this is the amount adopted in 2013.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** The Finance Committee will review this at their December 11, 2014 meeting.

**RECOMMENDED ACTION: MOTION to approve Ordinance No. 14-1043, amending the 2015 Salary Schedule.**

### RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 18, 2014		

**ORDINANCE NO. 14-1043**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING THE 2015 SALARY SCHEDULE TO CORRECT THE POLICE COMMANDER SALARY RANGE TO THE 2014 ADOPTED AMOUNTS**

**WHEREAS**, it is necessary to make adjustments to Exhibit A, 2015 Salary Schedule, attached to Ordinance No. 14-1038, to update the Police Commander salary range to the correct salary range as adopted in the 2014 Salary Schedule; and

**WHEREAS**, there is no anticipated change to 2015 fund balances as adopted in Ordinance No. 14-1038;

**WHEREAS, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS;**

**Section 1.** The 2015 Salary Schedule (Exhibit A) attached to Ordinance No. 14-1038 is hereby amended as attached.

**Section 2.** This Ordinance shall be in full force and effect five days after its passage, approval, posting and publication in summary form as provided by law.

Introduced this 18th day of December, 2014.

Passed by a majority of the City Council at a meeting held on the 18th day of December, 2014.

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol Morris, City Attorney

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

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

**City of Black Diamond 2015 Budget Ordinance 14-1043 Exhibit "A"**

<b>2015 Salary Schedule</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>5 &amp; On</b>
City Administrator	9,345	9,649	10,112	10,478	10,848
Assistant City Administrator	8,033	8,435	8,837	9,238	9,640
Court Administrator	5,891	6,159	6,427	6,694	6,962
Interim Court Administrator	5,305	-	-	-	-
Court Clerk (50% hourly)	18.54	20.09	21.63	23.18	24.72
Accounts Payable Clerk (Hourly)	17.91	19.34	20.89	22.56	24.93
MDRT & Economic Director	7,498	7,899	8,301	8,703	9,104
City Attorney	8,161	8,569	8,997	9,447	9,919
City Clerk/HR Manager	7,498	7,899	8,301	8,703	9,104
Deputy City Clerk	4,499	4,814	5,128	5,443	5,757
Finance Director	7,498	7,899	8,301	8,703	9,104
Deputy Finance Director	6,631	7,013	7,396	7,778	8,161
Utility Clerk	3,213	3,481	3,749	4,017	4,284
Senior Accountant 75% (hourly)	25.79	27.08	28.43	29.86	31.35
Accountant 1 Journey (hourly)	17	17	18	19	20
Administrative Assistant 2	3,213	3,481	3,749	4,017	4,284
Administrative Assistant 1	2,356	2,544	2,731	2,919	3,106
Information Services Manager	6,962	7,364	7,766	8,167	8,569
Police Chief	10,236	10,585	11,008	11,287	11,692
Police Commander	8,422	8,702	8,984	9,264	9,588
Police Sergeant	8,292	8,757	-	-	-
Police Officer	5,037	5,645	6,255	6,863	7,440
Police Records Coordinator	4,499	4,814	5,128	5,443	5,757
Police Clerk 62.5% (hourly)	15.05	16.51	17.96	18.98	20.87
Facilities Equipment Coordinator	4,499	4,814	5,128	5,443	5,757
Human Resources Director	7,498	7,899	8,301	8,703	9,104
Community Dev/Natural Resources Dir	7,498	7,899	8,301	8,703	9,104
Permit Center Supervisor	5,891	6,159	6,427	6,694	6,962
Permit Technician	4,499	4,814	5,128	5,443	5,757
Permit Technician (Hourly)	25.96	27.77	29.59	31.40	33.22
Compliance Officer	4,499	4,814	5,128	5,443	5,757
Senior Planner	5,355	5,622	5,903	6,198	6,508
Planner	4,499	4,814	5,128	5,443	5,757
Associate Planner	4,482	4,707	4,942	5,189	5,448
Assistant Planner	4,181	4,391	4,610	4,840	5,082
Building Official	6,962	7,364	7,766	8,167	8,569
Parks Department Director	7,498	7,899	8,301	8,703	9,104
Public Works Director	7,498	7,899	8,301	8,703	9,104
Utilities Superintendent	6,962	7,364	7,766	8,167	8,569
Construction Inspector	6,962	7,364	7,766	8,167	8,569
Public Utilities Operator	4,713	4,794	4,889	4,982	5,076
Public Works Administrative Asst 3	4,250	4,463	4,686	4,920	5,167
Utility Worker-Facility/Eq/Utility Worker	3,323	3,644	3,965	4,287	4,629
Utility Worker Seasonal (hourly)	13.24	-	-	-	-

# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b>	<b>Agenda Date: December 18, 2014</b>	<b>AB14-124</b>
<b>AB14-124</b>	Mayor Carol Benson	
<b>Ordinance No. 14-1039, adopting the Pass-through King County Metro 2015 Sewer Rate Increase.</b>	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Community Development/Natural Resource– Aaron Nix	
	Finance – May Miller	<b>X</b>
	MDRT & Economic Development – Andy Williamson	
	Parks/Natural Resources –	
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
	Court Administrator – Stephanie Metcalf	
Cost Impact (see also Fiscal Note):		
Fund Source: Sewer		
Timeline: Effective January 1, 2015		

**Agenda Placement:**  Mayor  Two Councilmembers  Committee Chair  City Administrator

**Attachments: Ordinance No. 14-1039; Metro KC Council letter and Ordinance 17825, King County rate increase schedule, Black Diamond rate comparison**

### SUMMARY STATEMENT:

A Public Hearing was held on November 20, 2014 to review the 2015 pass-through Metropolitan King County Sewer rate increase of \$2.24 per month per residential Equivalent (ERU) effective January 1, 2015.

The Metropolitan King County Council sent a letter of notice to the City that their pass-through residential Sewer rates will increase from \$39.79 to \$42.03 per month effective January 1, 2015. This is a pass through rate increase that Metropolitan King County has imposed for all of their Sewer system customers to recover their cost off operating their collection system which takes sewer from each area through their treatment process. The new rate of \$42.03 per month is collected by the City from each customer and remitted monthly to Metro per our contract. The Metropolitan King County Council approved the Sewer rate increase per their Ordinance 17825 on June 2, 2014.

The Metropolitan King County Sewer rate is proposed to cover both 2015 and 2016 with the next Metro rate increase not planned until 2017.

The City portion of the sewer rate is included in not included in this ordinance authorization as it was already approved per Ordinance 13-1007 that was adopted in 2013. The City portion will also increase January 1, 2014 by the July Western Region 2014 CPI-U at 2.3% or 45 cents per month from \$19.52 to \$19.97. The City currently has and proposed to continue to offer the Lifeline discount to our Senior low-income or disabled sewer customers for only the city portion of the sewer rate. The current Lifeline eligible customers receive a 50% discount on the city share of the sewer rate, which will increase .23 cents a month from \$9.76 to 9.99 effective January 1, 2015.

A City of Black Diamond Utility rate worksheet for 2015 is attached, showing the comparison of rates from 2014 to 2015.

**FISCAL NOTE (Finance Department):**

The Metro pass-through sewer rate increase of 5.6% is remitted to King County Metro to cover their cost. The previously approved city share of the rate will increase by the inflationary increase of 2.3% this covers sewer maintenance costs and is included in the 2015 Budget.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** the Finance Committee reviewed the sewer rate increases at their October 30, 2014 and December 11, 2014 Finance Committee Meetings.

**RECOMMENDED ACTION: Motion to ADOPT Ordinance No. 14-1039, approving the pass-through King County Metro 2015 sewer rate increase.**

**RECORD OF COUNCIL ACTION**

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 1, 2014	Pulled from Agenda	
December 18, 2014		

**ORDINANCE NO. 14-1039**

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, RELATING TO ADJUSTMENTS TO SEWER CHARGES; AMENDING SECTION 13.24.010 OF THE BLACK DIAMOND MUNICIPAL CODE TO INCREASE THE SEWER RATE COMMENSURATE WITH THE INCREASE IMPOSED BY KING COUNTY METRO ON ITS CUSTOMERS; AND ESTABLISHING AN EFFECTIVE DATE OF THE NEW RATE INCREASE ON SEWER CUSTOMERS**

**WHEREAS**, the Metropolitan King County Council approved a sewer rate increase on June, 2014, with Ordinance 17825 for their contracting customers effective January 1, 2015; and

**WHEREAS**, a public hearing was held on November 20, 2014, to receive public input regarding the Metropolitan King County sewer pass through rate increase; and

**WHEREAS**, in order to meet contract obligations to pay Metropolitan King County for our contracted collection and treatment services, the City is in need of increasing its pass through sewer rate by the amount of the Metropolitan King County sewer rate increase to be effective January 1, 2015;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:**

**Section 1.** Section 13.24.010 of the Black Diamond Municipal Code is hereby amended to read as follows:

**13.24.010 Monthly Rates Designated.** Effective January 1, ~~2013~~2015 sewer service charges shall be as follows:

A. General. The sewer service charge shall be the total of the base sewer service charge, the surcharge, and the applicable additional flow and unit charges.

B. Base Sewer Service Charge. The base sewer service charge shall be nineteen dollars and ~~sixteen~~ ninety seven cents.

C. Surcharge. There shall be, in addition to the base sewer service charge, a surcharge reflecting the cost of service charged to the City by King County for wastewater transmission, storage and treatment. The surcharge shall be ~~thirty-nine dollars and seventy-nine cents~~ forty two dollars and three cents.

D. Single-family Residential Charge. Residential users served by a single meter to the residence shall be subject to the base sewer service charge plus the surcharge.

E. Lifeline Utility Program. Residential users served by a single meter who have been approved under the lifeline utility program will receive a discount on the city share of the sewer rate base sewer service charge as shown on the City fee schedule.

F. Other users; Additional Flow and Unit Charges. All users other than single-family residential; including but not limited to commercial users, multi-family residences and mobile home parks shall, for each water meter in use, be subject to the base sewer service charge plus the surcharge plus additional flow charges of ~~five dollars and ninety-one cents~~ six dollars and ninety-nine cents for each one hundred cubic feet of water consumed each month in excess of seven hundred fifty cubic feet, as measured by such water meter. The user shall, for each water meter in use that serves more than one unit, be subject to an additional unit charge of ten dollars for each additional unit served by that water meter. For purposes of this section, the word "unit" shall be defined as any dwelling unit, home, condominium, mobile home, manufactured home or location at which business is conducted.

G. Irrigation and Landscaping. Any user subject to an additional flow charge may apply to the City for installation of a separate meter to monitor water usage solely for irrigation and landscaping purposes. The individual or entity requesting such a meter shall pay the City for the cost of the meter and cost of installation. Water consumed for these purposes shall be subject to the base sewer service charge and surcharge but shall not be subject to the additional flow charge.

H. Home occupations. For purposes of this chapter, home occupations shall not be considered a second use.

I. Taxes. Federal, state and local taxes, where applicable, shall be added to the sums as set forth above.

J. CPI-U Annual Adjustment: The monthly base sewer service, additional flow and unit charges set forth herein shall be adjusted annually at 12:01 a.m. on January 1<sup>st</sup> of each year by the annual percentage of change in the all urban consumer price index ("CPI-U") published by the Bureau of Labor Statistics of the U.S. Department of Labor for the Western Region, using the July index for the year immediately preceding the year of the adjustment.\* In no event shall the monthly charges decrease as a result of the CPI-U adjustment without separate and specific action by the city council. The CPI-U adjustment shall apply to the base sewer service, additional flow and unit charges, as annually adjusted pursuant to this section.

\* NOTE: For example, if the annual percentage increase in the CPI-U for the Western Division for July 2013 was 1.8 percent (the percentage of change in the CPI-U from July of 2012 to July of 2013), the monthly base

sewer service, additional flow and unit charges for 2014 would be increased on January 1, 2014 by 1.8 percent.

**Section 2.** This Ordinance shall be effective at 12:01 a.m. on January 1, 2015, which is more than five days after the date of publication. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

**Section 3.** If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

Introduced the 18th day of December, 2014.

Passed by a majority of the City Council at a special meeting held on the 18th day of December, 2014.

\_\_\_\_\_  
Mayor Carol Benson

Attest:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol Morris, City Attorney

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

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



**Metropolitan King County Council**

Anne Noris, *Clerk of the Council*

King County Courthouse

516 Third Avenue, Room E-1204

Seattle, WA 98104-3272

**Tel: 206.477.1020**

Fax: 206.205.8165

**Email: [anne.noris@kingcounty.gov](mailto:anne.noris@kingcounty.gov)**

TTY 296-1024

Web: [www.kingcounty.gov/council/clerk](http://www.kingcounty.gov/council/clerk)

June 16, 2014

Ms. Brenda Martinez, Asst. City Administrator  
City of Black Diamond  
P.O. Box 599  
Black Diamond, WA 98010

Dear Ms. Martinez,

Monetary Requirements for 2015

The Metropolitan King County Council approved the sewer rate for 2015 and the sewage treatment capacity charge for 2015 with the adoption of Ordinance 17825 on June 2, 2014. A copy of Ordinance 17825 is enclosed for your information.

If you have any questions, please call the Clerk of the Council's Office at our new number 206 477-1020.

Sincerely,

Anne Noris  
Clerk of the Council

Enclosure



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**June 2, 2014**

**Ordinance 17825**

**Proposed No. 2014-0168.1**

**Sponsors McDermott**

1 AN ORDINANCE determining the monetary requirements  
2 for the disposal of sewage for the fiscal year beginning  
3 January 1, 2015, and ending December 31, 2015; setting  
4 the sewer rate for the fiscal year beginning January 1, 2015,  
5 and ending December 31, 2015, and approving the amount  
6 of the sewage treatment capacity charge for 2015, in  
7 accordance with RCW 35.58.570; and amending Ordinance  
8 12353, Section 2, as amended, and K.C.C. 4A.670.100 and  
9 Ordinance 11398, Section 1, as amended, and K.C.C.  
10 28.84.055.

11 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

12 SECTION 1. Ordinance 12353, Section 2, as amended, and K.C.C. 4A.670.100

13 are each hereby amended to read as follows:

14 A. Having determined the monetary requirements for the disposal of sewage, the  
15 council hereby adopts a ~~((2014))~~ 2015 sewer rate of ~~((thirty-nine dollars and seventy-~~  
16 ~~nine))~~ forty-two dollars and three cents per residential customer equivalent per month.

17 Once a sewer rate ordinance becomes effective, the clerk of the council is directed to  
18 deliver a copy of that ordinance to each agency having an agreement for sewage disposal  
19 with King County.

20 B. The King County council approves the application of Statement of Financial  
21 Accounting Standards No. 71 (FAS 71) to treat pollution remediation obligations and  
22 RainWise Program expenditures as regulatory assets, and establish a rate stabilization  
23 reserve for the purpose of leveling rates between years.

24 C. As required for FAS 71 application, amounts are to be placed in the rate  
25 stabilization reserve from operating revenues and removed from the calculation of debt  
26 service coverage. The reserve balance shall be an amount at least sufficient to maintain a  
27 level sewer rate between ~~((2013))~~ 2015 and ~~((2014))~~ 2016, and shall be used solely for  
28 the purposes of: maintaining the level sewer rate in ~~((2014))~~ 2016; and if additional  
29 reserve balance is available, moderating future rate increases beyond ~~((2014))~~ 2016. The  
30 estimated amount of the reserve, as shown in the financial forecast, Attachment A to  
31 ~~((Ordinance 17606))~~ this ordinance, shall be revised in accordance with the ~~((2014))~~ 2015  
32 adopted budget and financial plan. If the reserve needs to be reduced to meet debt  
33 service coverage requirements for ~~((2013))~~ 2014, the county executive shall notify the  
34 council of the change by providing an updated financial forecast.

35 ~~((D. The executive shall provide monthly cost reports to the council on  
36 Brightwater as outlined in K.C.C. 28.86.165.))~~

37 SECTION 2. Monetary requirements for the disposal of sewage as defined by  
38 contract with the component sewer agencies for the fiscal year beginning January 1,  
39 2015, and ending December 31, 2015. The council hereby determines the monetary  
40 requirements for the disposal of sewage as follows:

41 Administration, operating, maintenance repair and replace (net of other income):  
42 \$69,126,693.

43 Establishment and maintenance of necessary working capital reserves:

44 (\$12,615,608).

45 Requirements of revenue bond resolutions (not included in above items and net of  
46 interest income): \$307,400,794.

47 TOTAL: \$363,911,880.

48 SECTION 3. Ordinance 11398, Section 1, as amended, and K.C.C. 28.84.055 are  
49 each hereby amended as follows:

50 A. The amount of the metropolitan sewage facility capacity charge adopted by  
51 K.C.C. 28.84.050.O. that is charged monthly for fifteen years per residential customer or  
52 residential customer equivalent shall be:

53 1. Seven dollars for sewer connections occurring between and including January  
54 1, 1994, and December 31, 1997;

55 2. Ten dollars and fifty cents for sewer connections occurring between and  
56 including January 1, 1998, and December 31, 2001;

57 3. Seventeen dollars and twenty cents for sewer connections occurring between  
58 and including January 1, 2002, and December 31, 2002;

59 4. Seventeen dollars and sixty cents for sewer connections occurring between  
60 and including January 1, 2003, and December 31, 2003;

61 5. Eighteen dollars for sewer connections occurring between and including  
62 January 1, 2004, and December 31, 2004;

63 6. Thirty-four dollars and five cents for sewer connections occurring between  
64 and including January 1, 2005, and December 31, 2006;

65           7. Forty-two dollars for sewer connections occurring between and including  
66 January 1, 2007, and December 31, 2007;

67           8. Forty-six dollars and twenty-five cents for sewer connections occurring  
68 between and including January 1, 2008, and December 31, 2008;

69           9. Forty-seven dollars and sixty-four cents for sewer connections occurring  
70 between and including January 1, 2009, and December 31, 2009;

71           10. Forty-nine dollars and seven cents for sewer connections occurring between  
72 and including January 1, 2010, and December 31, 2010;

73           11. Fifty dollars and forty-five cents for sewer connections occurring between  
74 and including January 1, 2011, and December 31, 2011;

75           12. Fifty-one dollars and ninety-five cents for sewer connections occurring  
76 between and including January 1, 2012, and December 31, 2012;

77           13. Fifty-three dollars and fifty cents for sewer connections occurring between  
78 and including January 1, 2013, and December 31, 2013; ~~((and))~~

79           14. Fifty-five dollars and thirty-five cents for sewer connections occurring  
80 between and including January 1, 2014, and December 31, 2014; and

81           15. Fifty-seven dollars for sewer connections occurring between and including  
82 January 1, 2015, and December 31, 2015.

83           B.1. In accordance with adopted policy FP-15.3.d. in the Regional Wastewater  
84 Services Plan, K.C.C. 28.86.160.C., it is the council's intent to base the capacity charge  
85 upon the costs, customer growth and related financial assumptions used in the Regional  
86 Wastewater Services Plan.

87           B.2. In accordance with adopted policy FP- 6 in the Regional Wastewater  
88 Services Plan, K.C.C. 28.86.160.C, the council hereby approves the cash balance and  
89 reserves as contained in the attached financial plan for ((2014)) 2015.

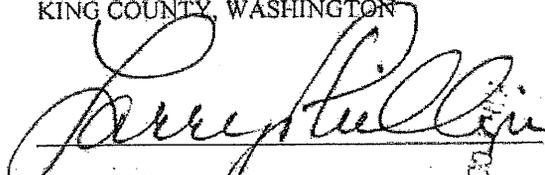
90           B.3. In accordance with adopted policy FP- 15.3.c., King County shall pursue  
91 changes in state legislation to enable the county to require payment of the capacity charge

- 92 in a single payment, while preserving the option for new ratepayers to finance the
- 93 capacity charge.
- 94 10 days prior, official paper
- 95 Publish: Wednesday, May 21<sup>st</sup>
- 96 Public Hearing: Renton City Hall, 6/2/14
- 97

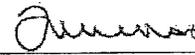
Ordinance 17825 was introduced on 5/5/2014 and passed by the Metropolitan King County Council on 6/2/2014, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,  
Ms. Lambert, Mr. McDermott, Mr. Dembowski and Mr. Upthegrove  
No: 0  
Excused: 1 - Mr. Dunn

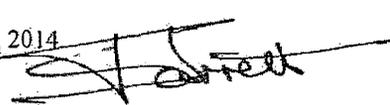
KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Larry Phillips, Chair

ATTEST:

  
\_\_\_\_\_

Anne Noris, Clerk of the Council

APPROVED this 02<sup>nd</sup> day of June, 2014  
  
Dow Constantine, County Executive

RECEIVED  
2014 JUN -6 PM 3:49  
CLERK  
KING COUNTY COUNCIL

Attachments: A. Wastewater Treatment Division Financial Plan for the 2015 Proposed Sewer Rate

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**ATTACHMENT A: Wastewater Treatment Division Financial Plan for the 2015 Proposed Sewer Rate**

17825

	2013	2014	2015	2016	2017	2018	2019	2020
	Unaudited	Forecast						
CUSTOMER EQUIVALENTS (RCEs)	718.16	721.25	724.35	727.46	730.61	733.75	736.90	741.47
MONTHLY RATE	\$39.79	\$39.79	\$42.03	\$42.03	\$44.75	\$45.57	\$46.47	\$47.36
% Increase	10.2%	0.0%	5.6%	0.0%	6.5%	1.8%	2.0%	1.9%
BEGINNING OPERATING FUND	74,094	63,951	44,183	33,100	14,139	14,705	15,293	16,016
OPERATING REVENUE:								
Customer Charges	342,850	344,382	365,333	366,904	392,316	401,200	410,947	421,377
Investment Income	2,333	1,424	1,734	2,027	5,222	8,010	10,997	13,639
Capacity Charge	58,649	49,239	54,484	60,252	66,270	72,590	79,506	85,982
Rate Stabilization *	10,350	20,750	11,900	19,600	0	0	0	0
Other Income	9,608	11,048	11,387	11,711	11,945	12,304	12,673	13,053
TOTAL OPERATING REVENUES	423,790	426,842	444,837	460,493	475,753	494,103	514,123	534,051
OPERATING EXPENSE	(117,011)	(126,834)	(134,997)	(141,394)	(147,050)	(152,931)	(160,164)	(167,291)
DEBT SERVICE REQUIREMENT PARITY DEBT	(216,023)	(219,294)	(223,152)	(228,048)	(238,154)	(247,833)	(258,671)	(270,395)
SUBORDINATE DEBT SERVICE	(14,601)	(19,726)	(22,176)	(26,564)	(29,061)	(32,138)	(35,136)	(36,399)
DEBT SERVICE COVERAGE RATIO PARITY DEBT **	1.42	1.37	1.39	1.40	1.38	1.38	1.37	1.36
DEBT SERVICE COVERAGE RATIO TOTAL PAYMENTS	1.33	1.15	1.15	1.15	1.15	1.15	1.15	1.15
INTER-FUND LOAN REPAYMENTS	(20,336)	0	0	0	0	0	0	0
LIQUIDITY RESERVE CONTRIBUTION	(207)	(982)	(816)	(640)	(566)	(588)	(723)	(713)
TRANSFERS TO CAPITAL	(55,612)	(60,066)	(63,696)	(63,847)	(60,922)	(60,612)	(59,429)	(59,254)
RATE STABILIZATION RESERVE *	52,250	31,500	19,600	0	0	0	0	0
OPERATING LIQUIDITY RESERVE BALANCE	11,701	12,683	13,500	14,139	14,705	15,293	16,016	16,729
OPERATING FUND ENDING BALANCE	63,951	44,183	33,100	14,139	14,705	15,293	16,016	16,729
<b>CONSTRUCTION FUND</b>								
BEGINNING FUND BALANCE	107,282	98,145	31,408	9,601	5,000	5,000	5,001	5,001
REVENUES:								
Parity Bonds	50,000	0	50,000	58,887	139,727	133,958	150,148	161,971
Variable Debt Bonds	0	0	15,000	0	0	20,198	10,842	11,727
Grants & Loans	19,857	22,918	20,000	47,500	0	0	0	0
Other	10,197	500	6,500	500	500	500	500	500
Transfers From Operating Fund	55,612	60,006	63,696	63,847	60,922	60,612	59,429	59,254
TOTAL REVENUES	135,666	83,423	155,196	170,735	201,149	215,268	220,919	233,452
CAPITAL EXPENDITURES	(163,482)	(148,309)	(170,183)	(177,447)	(187,100)	(201,576)	(206,074)	(218,250)
DEBT ISSUANCE COSTS	(322)	0	(1,075)	(1,178)	(2,795)	(2,780)	(3,057)	(3,298)
BOND RESERVE TRANSACTIONS	(2,981)	(0)	(3,632)	6,022	(10,151)	(9,732)	(10,908)	(11,767)
ADJUSTMENTS	21,992	(1,851)	(2,113)	(2,733)	(1,104)	(1,179)	(879)	(137)
ENDING FUND BALANCE	98,145	31,408	9,601	5,000	5,000	5,001	5,001	5,001
CONSTRUCTION FUND RESERVES								
Bond & Loan Reserves	183,822	185,673	191,417	188,129	199,384	210,295	222,082	233,986
Policy Reserves	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
TOTAL FUND RESERVES	198,822	200,673	206,417	203,129	214,384	225,295	237,082	248,986
CONSTRUCTION FUND BALANCE	296,957	232,051	216,019	208,129	219,384	230,295	242,083	253,967

\* This revenue is accounted for as a regulatory asset to be deferred to future years in accordance with the Statement of Financial Accounting Standards No. 71 (FAS-71).  
 \*\* This includes a Regulatory Asset for a \$57.9M estimate of Environmental Remediation Liability in accordance with FAS-71 (amortized over a 30-year average bond term).

**City of Black Diamond**  
**2015 Monthly Utility Rates**  
**Rate Increase Comparison 2014-2015**

Rate Comparison for 1000 cu ft. Water **2015**

	Jan-14	Jan-15	Increase	Ordinance	Percentage
Water	\$56.42	\$64.87	<b>\$8.45</b>	13-1005	15%
Metro Sewer	\$39.79	\$42.03	\$2.24	14-XXXX	5.60%
City Sewer	\$19.52	\$19.97	\$0.45	13-1007	2.30%
Stormwater	\$16.00	\$16.00	<b>\$0.00</b>		
<b>Total</b>	<b>\$131.73</b>	<b>\$142.87</b>	<b>\$11.14</b>		8.50%
<b>Total monthly</b>	<b>Increase of 36 cents a day</b>				

Rate Comparison for 1000 cu ft. Lifeline customer

	Jan-14	Jan-15	Increase	Ordinance	Percentage
Water	\$28.21	\$32.43	<b>\$4.22</b>	13-1005	15%
Metro Sewer	\$39.79	\$42.03	\$2.24	14-XXXX	5.60%
City Sewer	\$9.76	\$9.99	\$0.23	13-1007	2.30%
Stormwater	\$8.00	\$8.00	<b>\$0.00</b>		
<b>Total</b>	<b>\$85.76</b>	<b>\$92.45</b>	<b>\$6.69</b>		7.80%
<b>Total monthly</b>	<b>Increase of 22 cents a day</b>				

mm/Oct 29, 2014

# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b> <b>Resolution No. 14-997, Accepting grant funds from the Transportation Improvement Board (TIB) for the Roberts Drive, Rock Creek Bridge to Lynch Lane project</b>	<b>Agenda Date: December 18, 2014</b>		<b>AB14-125</b>
	Mayor Carol Benson		
	City Administrator		
	City Attorney Carol Morris		
	City Clerk – Brenda L. Martinez		
	Com Dev/Nat Res – Aaron Nix		
	Finance – May Miller		
	MDRT/Eco Dev – Andy Williamson		
	Police – Chief Kiblinger		
	Public Works – Seth Boettcher		<b>X</b>
Cost Impact (see also Fiscal Note): \$792,000 revenue; \$88,000 CIP expense	Court – Stephanie Metcalf		
Fund Source: TIB Grant			
Timeline: 2015			

**Agenda Placement:**  Mayor  Two Councilmembers  Committee Chair  City Administrator

**Attachments: Resolution No. 14-997, Grant Application, Cost Estimate, Award Letter, Project Vicinity Map, CIP Page, Letter to TIB to Combine Projects, Letter from TIB Combining Projects**

### SUMMARY STATEMENT:

Black Diamond was selected for a Small City Arterial Program fuel tax grant from the Washington State Transportation Improvement Board (TIB). The application and award was originally for Roberts Drive from Sunny Lane to Lynch Lane. Public Works staff was able to have TIB combine this project with the Rock Creek Bridge project (Resolution 13-910) in order to be more cost-effective. With these two projects combined and all funds now obligated under the Rock Creek Bridge project, the total grant funds for this now combined project are \$1,266,300.

As City staff was able to get these two projects combined, the City will be able to put forth a more cost-effective project. Having the design engineering and the construction performed as one project will provide great savings to the City as opposed to doing two separate projects and provides potential to extend improvements further east of Lynch Lane.

Repairing Roberts Drive has been a priority for the City Council. The Public Works Committee, made of up Councilmember Taylor and Councilmember (now Mayor) Benson, has pushed staff to find a solution to repair Roberts Drive. With their help, these grants have been secured and the projects combined in order to maximize this \$1,266,300 in grants.

This grant will extend improvements from the original Rock Creek Bridge, which will provide shoulder improvements, install street or pedestrian lighting, and overlay Roberts Drive from Sunny Lane to Lynch Lane. This project will also extend sidewalk improvements on the south side of Roberts Drive from Bruckners Way to Lynch Lane.

**FISCAL NOTE (Finance Department):** The overall project cost is now estimated at \$1,454,000, with a local match requirement of \$141,700 from REET, and \$46,000 from YarrowBay.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: Public Works Committee recommends acceptance.		
RECOMMENDED ACTION: <b>MOTION to adopt Resolution 14-997, accepting grant funds from the Transportation Improvement Board for the Roberts Drive, Rock Creek Bridge to Lynch Lane project.</b>		
<b>RECORD OF COUNCIL ACTION</b>		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 18, 2014		

**RESOLUTION NO. 14-997**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
ACCEPTING GRANT FUNDS FROM THE WASHINGTON  
TRANSPORTATION IMPROVEMENT BOARD FOR THE  
ROBERTS DRIVE, ROCK CREEK BRIDGE TO LYNCH  
LANE PROJECT**

**WHEREAS**, the City's grant application for the Transportation Improvement Board Small City Arterial Program was selected for the Roberts Drive, Sunny Lane to Lynch Lane project in the amount of \$792,000; and

**WHEREAS**, the City has an existing agreement with the Transportation Improvement Board for the Rock Creek Bridge project through Resolution 13-910 for \$474,300; and

**WHEREAS**, the Transportation Improvement Board has committed the \$792,000 in addition to the Rock Creek Bridge project in order to combine the projects and save on overall costs; and

**WHEREAS**, the City has the staff and funds to complete the project;

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

**Section 1.** The City Council hereby accepts the grant funds from the Washington Transportation Improvement Board for the Roberts Drive, Rock Creek Bridge to Lynch Lane project.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 18<sup>TH</sup> DAY OF  
DECEMBER, 2014.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

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



# Washington State Transportation Improvement Board

November 24, 2014



### TIB Members

Councilmember Sam Crawford, Chair  
Whatcom County

Jim Albert  
Office of Financial Management

Pasco Bakotich, P.E.  
WSDOT

Wendy Clark-Getzin, P.E.  
Clallam Transit

Gary Ekstedt, P.E.  
Yakima County

Mayor James Irish  
City of La Center

John Klekotka, P.E.  
Port of Everett

Commissioner Robert Koch  
Franklin County

Colleen Kuhn  
Human Services Council

Mayor Patty Lent  
City of Bremerton

Mick Matheson, P.E.  
City of Sultan

Councilmember R.E. Bob Olson  
City of Kennewick

Laura Philpot, P.E.  
City of Sammamish

David Ramsay  
Feet First

Amy Scarton  
WSDOT

Heidi Stamm  
HS Public Affairs

Commissioner Richard Stevens  
Grant County

John Vodopich  
City of Bonney Lake

Jay Weber  
County Road Administration Board

Clay White  
Snohomish County

Mr. Seth Boettcher, P.E.  
Public Works Director  
City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010-0599

Dear Mr. Boettcher:

Congratulations! We are pleased to announce the selection of your project, Roberts Drive, Sunny Lane to City Hall, TIB project number 6-P-800(003)-1.

Total TIB funds for this project are \$792,000.

### Before any work is allowed on this project, you must:

- Verify the information on the Project Funding Status Form, revise if necessary, and sign;
- Submit the section of your adopted Six Year Transportation Plan listing this project;
- Sign both copies of the Fuel Tax Grant Distribution Agreement; and
- Return the above items to TIB.

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by November 21, 2015 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Greg Armstrong, TIB Project Engineer, at (360) 586-1142 or e-mail [GregA@TIB.wa.gov](mailto:GregA@TIB.wa.gov).

Sincerely,

Stevan Gorcester  
Executive Director

Enclosures

Stevan E. Gorcester  
Executive Director  
P.O. Box 40901  
Olympia, WA 98504-0901  
Phone: 360-586-1140  
Fax: 360-586-1165  
[www.tib.wa.gov](http://www.tib.wa.gov)



# 2014 Small City Funding Application

## for Small City Arterial Program (SCAP)

Mail your signed application and required attachments to the TIB Office no later than **August 22, 2014**.  
The mailing address for the TIB Office: Post Office Box 40901 ❖ Olympia WA 98504-0901  
For assistance contact Greg Armstrong, TIB Project Engineer, at (360) 586-1142 or via email at GregA@tib.wa.gov

Agency Name <u>BLACK DIAMOND</u>	Legislative District(s) <u>5</u>
Arterial Name <u>Roberts Drive</u>	
Project Limits <u>Sunny Lane to Lynch Lane</u>	Congressional District(s) <u>8</u>
Length in Miles <u>0.19 miles</u>	<u>Find Legislative or Congressional District</u>
Average Daily Traffic (ADT) <u>4,100 vehicles per day</u>	
Agency Contact <u>Scott Hanis</u>	Phone Number <u>360-886-5713</u>
Email Address <u>shanis@ci.blackdiamond.wa.us</u>	

### PROJECT ELIGIBILITY

Check all of the following statements that apply to your project

- Serves as a logical extension of a county arterial or state highway through the city limits
- Serves as a route providing access to local facilities such as schools, medical facilities, commercial centers, industrial sites, social centers or recreational areas
- Acts as a bypass or truck route to relieve the central core area

### APPLICATION ATTACHMENTS

Include the following attachments with your application

- Detailed vicinity map clearly showing project limits indicating facilities served
- Detailed project cost estimate signed by a professional engineer registered in Washington State
- Typical roadway section(s)
- Funding commitment letters from all funding partners Number Attached \_\_\_\_\_
- Written concurrence from WSDOT if project is on or connects to a state highway
- Adopted bicycle plan if project includes bicycle facilities

### PROJECT SCHEDULE

Enter target dates

	Date
Start Design Engineering	<u>May 2015</u>
Contract Advertisement	<u>Jan 2016</u>
Contract Completion	<u>Dec 2016</u>

**PROJECT FUNDING**

Enter Requested Total TIB Funds \$ 792,000  
 Is this a construction ready project? NO  
 Are TIB funds distributed proportionally through the project phases? YES

Max Ratio 95.0%

Fill out total costs in F39 to F43. Do not fill in TIB Funds

Enter the Total Project Costs to the nearest dollar in cells F39 to F43

	Phase	Total Project	TIB Funds	Local Funds
Design Phase	Design Engineering	103,870	93,483	10,387
	Right of Way	75,000	67,500	7,500
Construction Phase	Construction Engineering	51,936	46,742	5,194
	Construction Other	51,936	46,742	5,194
	Construction Contract	597,258	537,532	59,726
<b>TOTALS</b>		<b>880,000</b>	<b>792,000</b>	<b>88,000</b>

Engineering exceeding 30% of eligible construction costs is not eligible for TIB reimbursement  
 Noneligible Engineering  
 Other Noneligible Costs  
 (for example, landscaping greater than 5% of total cost, utility undergrounding, sound walls)

TOTAL ELIGIBLE COST 880,000  
 TIB MATCHING RATIO 90%  
 Total TIB Funds/Total Eligible Costs

**FUNDING PARTNERS**

Source	Public or Private	Commitment Letter or Status	Amount
BLACK DIAMOND	Public	In CIP	88,000
<b>TOTAL</b>			<b>88,000</b>
<b>Local funds are correct</b>			

**CERTIFICATION**

Certification is hereby given that the information provided is accurate and the applicable attachments are complete and included as part of the application package



Agency Official Signature

DAVE GORDON Mayor  
 Printed or Typed Name & Title

8/18/14

Date Signed

## PROJECT DESCRIPTION

Describe the existing conditions:

Two-lane, 20-foot wide concrete, bumpy roadway with a mixture of paved and unpaved shoulders on both sides. There are no sidewalks on either side. There are a few street lights scattered on the south side of the road.

Describe the proposed improvements:

The concrete panels will be left in place. The roadway will be widened to accommodate bicycles in 14 foot wide shared lanes. The concrete will be over-layed with asphalt with a reinforcing grid to stop reflective cracking. Vertical curb and catch basins will collect stormwater on the south side and divert to treatment and infiltration in a retention pond, 6 foot sidewalks will be constructed on the south side of the roadway with street lights.

Describe the project benefits:

Provide a link from the King County Library, Black Diamond Elementary, City Hall and the historic downtown to the Master Planned Developments (now underway) on west side of town with 500 feet of wide gravel shoulder sidewalk gap on the east end of the project. Bicycles will be accommodated in both directions. Street lights will provide greater safety for school kids walking to bus stops during the winter months. The driving surface will be greatly improved, street noise greatly reduced and property values increased.

## PROJECT COMPONENTS

Give a brief description or select the appropriate response for each component of proposed project work

Project Type Overlay

Overlay existing concrete panels with asphalt, provide lane width for bicycles, install sidewalk and pedestrian level lighting for pedestrian safety.

Describe stormwater improvements

Install 530 LF of 12-inch PVC storm sewer pipe along with catch basins. Install a stormwater treatment facility on Union Drive (south of Roberts Drive). Purchase of land and right of way would be required to transport stormwater to this property and protect nearby Rock Creek.

Are any overhead utilities being moved underground? NO

Describe utility work

Utility work will be limited to stormwater improvements, installation of pedestrian lighting, relocating a fire hydrant, and adjusting valve cans. Overhead utilities may need to be relocated although the cost to relocate overhead utilities is covered through the city's franchise agreement with Puget Sound Energy.

Describe illumination, landscaping, and aesthetic elements

This project will add pedestrian level lighting along the sidewalk, matching a previous TIB sidewalk project on Roberts Drive between Morgan St. and the King County Library. A planter strip and street trees will also be installed where right of way width will allow.

Describe any other work

ADA improvements on a portion of existing sidewalk on the north side of the intersection of Roberts Drive and Union Drive (sidewalk heads north from Roberts Drive).

# ROADWAY GEOMETRICS

Enter the existing and proposed geometrics

If more than one section  
enter Percent of Total Length

	SECTION ONE		SECTION TWO	
	40%		60%	
	EXISTING	PROPOSED	EXISTING	PROPOSED
Pavement Width Curb to Curb or Edge to Edge	30 feet	36 feet	21 feet	36 feet
Number of Travel Lanes Do NOT include Continuous Left Turn Lane	2 lanes	2 lanes	2 lanes	2 lanes
Continuous Left Turn Lane Width	0 feet	0 feet	0 feet	0 feet
Shoulder or Parking Width Enter Average Width per Side	9 feet	8 feet	18 feet gravelled	8 feet
Shoulder or Parking Placement	One Side	None	Intermittent	None
Shoulder or Parking Surfacing	Surfaced	Surfaced	Unsurfaced	Surfaced
Curb Placement	One Side	One Side	None	One Side
Bicycle Lane Type	No Bicycle Facilities	Combined Lane	No Bicycle Facilities	Combined Lane
Bicycle Lane Width	0 feet	14' combined lane	0 feet	14' combined lane
Pedestrian Buffer Width between Curb and Sidewalk	0 feet	4 feet	0 feet	4 feet
Sidewalk Placement	One Side	Both Sides	None	One Side
Sidewalk Width <sup>1</sup>	6 feet	6 feet	0 feet	6 feet
<sup>1</sup> Projects must include sidewalk on at least one side by TIB policy Minimum sidewalk width is <b>five feet</b> with no obstructions <i>Sections that do not meet this standard require a Board deviation at project selection</i>				

## SAFETY

Select Truck Route Classification from dropdown list

[Link to Freight and Goods Map](#)

T-3 ~ 300 Thousand to 4 Million Tons Annually

Select Bus Route Type from dropdown list

School

Enter crash history within the project limits

Use crash history numbers from last three years only

crash documentation must be attached so TIB staff can analyze the information

Number of Property Damage Only Crashes 0

Number of Injury 0

Number of Fatality 0

[Link to request collision data from WSDOT](#)

## PROJECT DEFICIENCIES

Select Deficiency Type from the dropdown menu and describe the existing deficiency within the project limits

Describe the corrective measure(s) that eliminates or mitigates the deficiency.

### DEFICIENCY 1 **Drainage**

Describe Paving the south shoulder and installing curb and sidewalk on the south side will eliminate pervious surface for stormwater to infiltrate.

Corrective Measure(s) Install stormwater drainage controls to capture stormwater and convey it for treatment and infiltration.

### DEFICIENCY 2 **Obstructions**

Describe 100-year old concrete panel roadway is too narrow, deteriorating, and has rough transitions between panels.

Corrective Measure(s) Take measures to repair the concrete panels, where needed, and overlay and widen the roadway with asphalt.

### DEFICIENCY 3 **Obstructions**

Describe Lack of sidewalk. There is no designated path for pedestrians and no barrier to protect pedestrians from errant vehicles.

Corrective Measure(s) Install sidewalk on the south side of the road with a planter strip to give pedestrians a buffer from vehicles.

### DEFICIENCY 4 **Illumination**

Describe There are four street lights scattered throughout the project area, three of which are on the south side of the road. This leaves gaps making pedestrians more difficult to see and making walking conditions more dangerous for pedestrians on uneven ground.

Corrective Measure(s) Install 9 pedestrian level lights spaced 100 feet apart to provide better visibility of pedestrians.

## LOCAL SUPPORT

### ARTERIAL NETWORK DEVELOPMENT

Select the option that best describes your project

- Creates new arterial
- Completes gap  
Existing routes must have serviceable sidewalk on at least one side
- Extends improvements  
Existing route must have serviceable sidewalk on at least one side
- Does **not** complete or extend improvements and is **not** a new route

### COMMUNITY FACILITIES SERVED

#### BUSINESS/INDUSTRIAL AREAS

Select Development Type, enter Location and enter X in Direct or Indirect Access

Type	Location	DIRECT ACCESS Within Project Limits	INDIRECT ACCESS 2-3 Blocks from Project Limits
Commercial Development	24306 Roberts Drive		X
Commercial Development	24301 Roberts Drive		X

#### SCHOOLS

Select School Type, enter School Name and enter X in Direct or Indirect Access

Type	School Name	DIRECT ACCESS Within Project Limits	INDIRECT ACCESS 2-3 Blocks from Project Limits

#### PUBLIC FACILITIES

Select Facility Type, enter Facility Name and enter X in Direct or Indirect Access

Type	Facility Name	DIRECT ACCESS Within Project Limits	INDIRECT ACCESS 2-3 Blocks from Project Limits
Government Facility	City Hall		X
Government Facility	King County Library		X

## SUSTAINABILITY

Agency has Adopted Greenhouse Gas Emissions Policy

Enter Policy Number \_\_\_\_\_ Adoption Date \_\_\_\_\_

### ENERGY MEASURES

Select energy measures to be used on the project

- Replace or install Low Energy Lighting
- Add Solar-powered Signage

Describe the measures below

Install low energy pedestrian level lighting.

### ENVIRONMENTAL MEASURES

Select environmental measures to be used on the project

- Incorporates Hardscaping or Climate-appropriate Plantings with No Irrigation

Describe the measures below

Utilize New Zealand White Clover to provide a greenscape with the planter strip without irrigation.  
Drought tolerant street trees will also be utilized.

- Project Incorporates Low Impact Drainage Practices

Describe the measures below

Stormwater runoff will be piped to a retention pond for infiltration and treatment.

### RECYCLING MEASURES

Select recycling measures to be used on the project

- On-site Grinding & Reuse of Pavement
- Use of Base Treatment to Avoid Overexcavation
- Use of Stockpiled Recycle Materials

Describe the measures below



# Vicinity Map Roberts Drive Sunny Lane to Lynch Lane

## Legend

- Proposed Project
- Current TIB Project 6-P-800(002)-1
- Previous TIB Project P-P-800(P03)-1
- Previous TIB Project P-P-800(P04)-1

**City of Black Diamond**  
**Roberts Drive Sidewalk Improvements**

Prepared By: Austin Fisher, P.E.  
Reviewed By: Seth Boettcher, P.E.

<b>Roberts Drive Sunny Lane to Lynch Lane</b>					
<b>Planning Level - Probable Cost Estimate</b>					
<b>0.19 miles; sidewalk south side; street lights south side</b>					
ITEM NO.	DESCRIPTION OF ITEM	EST QUANTY	UNIT	UNIT PRICE	TOTAL
1	Mobilization, Cleanup, and Demobilization	1	LS	\$44,839.00	\$44,839.00
2	Survey	1	LS	\$7,000.00	\$7,000.00
3	SPCC Plan	1	LS	\$1,750.00	\$1,750.00
4	Pedestrian Control and Protection	1	LS	\$1,750.00	\$1,750.00
5	Project Temporary Traffic Control	1	LS	\$49,000.00	\$49,000.00
6	Clearing and Grubbing	1	LS	\$7,000.00	\$7,000.00
7	Removal of Structure and Obstructions	1	LS	\$10,500.00	\$10,500.00
8	Gravel Borrow, Incl. Haul	220	TON	\$15.00	\$3,300.00
9	Unsuitable Foundation Excavation, Incl. Haul	625	CY	\$50.00	\$31,250.00
10	Pothole	11	EA	\$350.00	\$3,850.00
11	Crushed Surfacing Top Course	375	TON	\$25.00	\$9,375.00
12	Glasgrid Reinforcement	1,875	SY	\$5.00	\$9,375.00
13	HMA Cl. 1/2" PG 64-22 (or 58-22) for overlay	480	TON	\$100.00	\$48,000.00
14	HMA Cl. 1/2" PG 64-22 (or 58-22) for patch	20	TON	\$125.00	\$2,500.00
15	Planing Bituminous Pavement	225	SY	\$7.00	\$1,575.00
16	Adjust Water Valve	11	EA	\$300.00	\$3,300.00
17	Adjust Gas Valve	3	EA	\$300.00	\$900.00
18	Adjust Manhole	3	EA	\$400.00	\$1,200.00
19	Adjust Catch Basin	1	EA	\$400.00	\$400.00
20	Adjust Monument	1	EA	\$400.00	\$400.00
21	Relocate Fire Hydrant	1	EA	\$1,000.00	\$1,000.00
22	Catch Basin Type I	1	EA	\$1,100.00	\$1,100.00
23	12" PVC storm pipe	530	LF	\$60.00	\$31,800.00
24	Infiltration pond	1	LS	\$35,000.00	\$35,000.00
25	Trench Excavation Safety System	1	LS	\$2,750.00	\$2,750.00
26	Removal of Unsuitable Material (Trench)	610	CY	\$15.00	\$9,150.00
27	Crushed Surfacing Top Course for Trench Backfill	275	CY	\$25.00	\$6,875.00
28	Erosion/Water Pollution Control	1	LS	\$3,500.00	\$3,500.00
29	Tree removal 12" diameter average	24	EA	\$250.00	\$6,000.00
30	Brush Removal	65	SY	\$5.00	\$325.00
31	Seeding, Fertilizing, and Mulching	0.050	AC	\$4,000.00	\$200.00
32	Sod Installation	115	SY	\$10.00	\$1,150.00
33	Replace steps 1 locations	1	LS	\$1,200.00	\$1,200.00
34	Topsoil Type A	40	CY	\$45.00	\$1,800.00
35	Bark or Wood Chip Mulch	30	CY	\$60.00	\$1,800.00
36	Block Wall average 3 feet high	100	SF	\$45.00	\$4,500.00
37	Cement Concrete Traffic Curb and Gutter	850	LF	\$20.00	\$17,000.00
38	Cement Concrete Driveway Entrance	235	SY	\$50.00	\$11,750.00
39	Cement Concrete Sidewalk	585	SY	\$40.00	\$23,400.00
40	pervious conc sidewalk	175	SY	\$55.00	\$9,625.00
41	Cement Concrete Sidewalk Ramp	9	EA	\$1,350.00	\$12,150.00
42	Quarry Spalls	7	TON	\$50.00	\$350.00
43	mailbox individual	3	EA	\$150.00	\$450.00
44	Permanent Signing	1	LS	\$900.00	\$900.00
45	Paint Line	1,400	LF	\$0.75	\$1,050.00

**City of Black Diamond  
Roberts Drive Sidewalk Improvements**

Prepared By: Austin Fisher, P.E.  
Reviewed By: Seth Boettcher, P.E.

<i>Roberts Drive Sunny Lane to Lynch Lane Planning Level - Probable Cost Estimate 0.19 miles; sidewalk south side; street lights south side</i>					
ITEM NO.	DESCRIPTION OF ITEM	EST QUANTY	UNIT	UNIT PRICE	TOTAL
46	Paint Line with RPMs	700	LF	\$1.00	\$700.00
47	Plastic Stop Line	72	LF	\$3.00	\$216.00
48	Plastic Crosswalk Line	225	LF	\$6.00	\$1,350.00
49	Street Lights 9 lights same as Roberts	1	LS	\$85,000.00	\$85,000.00
50	PSE meter and power feed	1	LS	\$10,000.00	\$10,000.00
<b>Subtotal Estimated Construction =</b>					<b>\$519,355</b>
<b>Design Engineering &amp; Survey, Environmental, Construction Admin. =</b>					<b>\$207,742</b>
<b>Right of Way Purchase 10 feet x 100, storm pond site and util ease =</b>					<b>\$75,000</b>
<b>Project Contingency @15% =</b>					<b>\$77,903</b>
<b>Total Estimated Construction =</b>					<b>\$880,000</b>



12-5-14



# CITY OF BLACK DIAMOND

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Physical Address: 24301 Roberts Drive  
Mailing Address: PO Box 599  
Black Diamond, WA 98010

Phone: (360) 886-5700  
Fax: (360) 886-2592  
[www.ci.blackdiamond.wa.us](http://www.ci.blackdiamond.wa.us)

December 2, 2014

Mr. Greg Armstrong, P.E.  
Transportation Improvement Board  
PO Box 40901  
Olympia, WA 98504-0901

RE: ROBERTS DRIVE PROJECTS

Dear Mr. Armstrong:

The City of Black Diamond is excited for the award of the Roberts Drive project (6-P-800(003)-1). Considering that the City has just begun our current TIB project on Roberts Drive from Rock Creek Bridge to Sunny Lane (6-P-800(002)-1), the City would like to (and intends to) design and construct these two projects as one project to take advantage of economies of scale and potentially extend the improvements on Roberts Drive past Lynch Lane.

Upon execution of this new agreement, we will amend the scope of our current contract with Parametrix to include this newly awarded project and make one bigger project. We will send you a copy of the contract amendment once we have negotiated scope and fee.

Thank you for your assistance with this project and past projects we have completed with TIB. We look forward to working with you again!

Sincerely,

Seth Boettcher  
Public Works Director



# Washington State Transportation Improvement Board

## TIB Members

Councilmember Sam Crawford, Chair  
Whatcom County

Councilmember Bob Olson, Vice Chair  
City of Kennewick

Jim Albert  
Office of Financial Management

Pasco Bakotich, P.E.  
WSDOT

Wendy Clark-Getzin, P.E.  
Collam Transit

Gary Eksteed, P.E.  
Yakima County

Mayor James Irish  
City of La Center

John Klekotka, P.E.  
Port of Everett

Commissioner Robert Koch  
Franklin County

Colleen Kuhn  
Human Services Council

Mayor Patty Lent  
City of Bremerton

Mick Matheson, P.E.  
City of Sultan

E. Susan Meyer  
Spokane Transit Authority

Laura Philpot, P.E.  
City of Stanwamish

David Ramsay  
Feet First

Amy Starton  
WSDOT

Heidi Stamm  
HS Public Affairs

Commissioner Richard Stevens  
Grant County

December 4, 2014

Mr. Seth Boettcher, P.E.  
Public Works Director  
City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010-0599

Dear Mr. Boettcher:

Your December 2, 2014 request to combine TIB funds from the Roberts Drive project # 6-P-800(003)-1 with Robert Project TIB project # 6-P-800(002)-1 has been approved. The approved TIB funds are shown in the table below:

Project Name	TIB Number	Original Amount	Revised Amount
Roberts Drive	6-P-800(002)-1	\$474,300	\$1,266,300
Roberts Drive	6-P-800(003)-1	\$792,000	\$0
Total		\$1,266,300	\$1,266,300

As a result of this action TIB project # 6-P-800(003)-1 has been withdrawn.  
Please send me a copy of the fully executed signed consultant agreement.

We would be happy to assist you with any questions regarding this process. You can contact Greg Armstrong, TIB Project Engineer, at (360) 586-1142 or via e-mail at [GregA@TIB.wa.gov](mailto:GregA@TIB.wa.gov).

Sincerely,

## Capital Plan 2015 - 2020

**Project for the** **Street Department** **# T3**

**PROJECT TITLE** **Roberts Drive Rehabilitation** **14.02**

**DESCRIPTION** Grind, Patch and Replace concrete panels; Seal joints and cracks; Pave the shoulders; Overlay the existing roadway

**BACKGROUND** The concrete roadway is about 100 years old but needs some major repair work. This project is to repair and preserve the existing road. At some point the city plans to upgrade the road to an urban standard with sidewalk, curb, gutters and street lights.

**COMMENTS** This budget was increased to address storm water treatment, asphalt shoulders, an overlay and the extra cost of a federally funded project. Whereas there are alternatives to looping and connecting water mains along this section of roadway, this project can move forward without full water system

**CAPITAL PROJECT COSTS**

Prelim Engineering & Environmental  
Design & bid docs  
Management & Admin  
Right of Way  
Construction  
Services during Construction  
Contingency

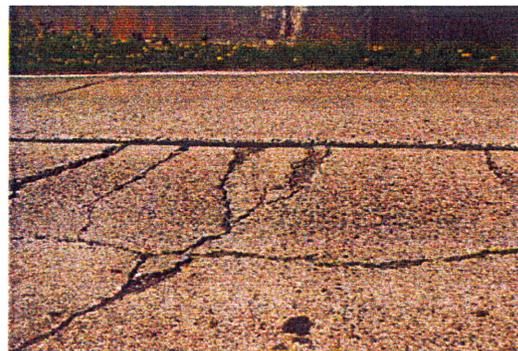
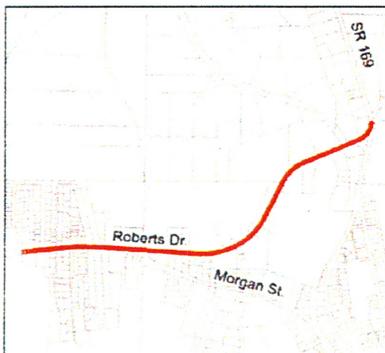
**TOTAL COSTS**

**REQUESTED FUNDING**

Federal Pave. Preservation Grant  
TIB Federal Grant Matching

**TOTAL SOURCES**

	Total \$ Requested 2015-2020	Capital Plan 2015 - 2020					
		2015	2016	2017	2018	2019	2020
	90,000	\$90,000					
	140,000	140,000					
	35,000	10,000	25,000				
	50,000	50,000					
	935,000		935,000				
	130,000		130,000				
	140,000	15,000	125,000				
<b>TOTAL COSTS</b>	<b>1,520,000</b>	<b>305,000</b>	<b>1,215,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
	Total \$ Requested 2015-2020	2015	2016	2017	2018	2019	2020
Federal Pave. Preservation Grant	1,314,800	229,225	1,085,575				
TIB Federal Grant Matching	205,200	35,775	169,425				
<b>TOTAL SOURCES</b>	<b>1,520,000</b>	<b>265,000</b>	<b>1,255,000</b>				



# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b> AB14-126	<b>Agenda Date:</b> December 18, 2014	AB14-126
<b>Resolution 14-998, authorizing the Mayor to execute a consultant service contract with AHBL for continued part-time Planning Services for the Community Development Department</b>	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Community Development/Natural Resources – Aaron Nix	X
	Finance – May Miller	
	MDRT/Economic Development – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$29,064	Public Works – Seth Boettcher	
Fund Source: Funding Agreement	Court – Stephanie Metcalf	
Timeline: January 2015 – March 2015		

**Agenda Placement:**  Mayor  Two Councilmembers  Committee Chair

**Attachments:** Resolution No. 14-998 and Contract as Appendix A

### SUMMARY STATEMENT:

The Community Development Department is in need of interim, part-time Planning services in order to help the Director with current Planning duties, un-related to the Master Development Review Team. The recent re-organization included moving Mr. Nix to a single funding agreement Community Development/Natural Resources position, assigning him both sets of duties. This will allow cost savings as the Natural Resources function is being integrated into Community Development and Mr. Nix will assume the Community Development Director position (recently vacated), along with providing Natural Resources duties.

These duties have utilized Planning help from AHBL, Inc. since July of this year. Staff wishes to continue on with these services, as the consultant has provided excellent help for the City, helped refine the permitting process (Streamlining) and helped tremendously with building a top notch GIS database, in which Staff can reliably obtain good, relevant data from.

**FISCAL NOTE (Finance Department):** \$29,064 is budgeted in the adopted 2015 City budget for a contracted Core Planner position, as Yarrow Bay will continue to fund a part-time, non-MDRT Planner position under the modified wind-down for staffing through March 19, 2015. The City may revise and increase the Community Development Fees in early 2015 to support planning consulting and other planning costs for non-MDRT related projects after Funding Agreement support ends in March 2015.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** The Finance Committee will review the Resolution for Planning Service consulting at their December 11, 2015 meeting.

**RECOMMENDED ACTION:** **MOTION to adopt Resolution No. 14-998, authorizing the Mayor to execute a consultant services contract with AHBL, Inc. in order to continue to provide the Community Development Department current Planning Services (Non-MDRT related) on a part-time, interim basis.**

<b>RECORD OF COUNCIL ACTION</b>		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 18, 2014		

**RESOLUTION NO. 14-998**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONSULTANT SERVICES CONTRACT WITH AHBL, INC FOR PART-TIME, INTERIM PLANNER SERVICES TO BE PROVIDED TO THE COMMUNITY DEVELOPMENT DEPARTMENT**

**WHEREAS**, the Community Development Department does not have a on staff Planner dedicated to processing land use and permit applications on non-MDRT related issues pertaining to the rest of the City of Black Diamond; and

**WHEREAS**, the Mayor had re-organized Staff in order to provide a cost savings to the City, while attempting to still meet the current demands being placed on the Community Development Department and is responsible for; and

**WHEREAS**, City staff had solicited responses from two consulting firms and two placement services and had recommended the consulting firm AHBL, Inc. to perform these duties; and

**WHEREAS**, City Staff and the City Attorney have reviewed the contract and Finance has dedicated sufficient funds in order to cover this services through March of 2015, on an interim and part-time basis; and

**WHEREAS**, AHBL, Inc. is willing and able to the perform the needed work;

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

**Section 1.** The Mayor is hereby authorized to execute a consultant services contract with AHBL, Inc. in an amount not exceed \$29,064.00 dollars, substantially in the form attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 18<sup>TH</sup> DAY OF DECEMBER, 2014.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

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

**CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF BLACK DIAMOND AND  
AHBL, INC. FOR TEMPORARY PLANNING SERVICES**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and AHBL, Inc., (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 2215 North 30th Street, Suite 300, Tacoma, WA 98403.

**RECITALS**

WHEREAS, the City is in need of day-to-day planning services on a temporary, part-time basis; and

WHEREAS, the Consultant has agreed to provide such services according to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

**TERMS**

**I. Description of Work.**

The Consultant shall assign professional planning staff, as identified in Exhibit A, to the City to perform on-call planning services on a temporary basis for the period identified in Section IV, or until the parties execute a new Agreement, or the City hires an employee to perform planning services, whichever is sooner, Provided: this shall not obligate the City to enter into any future Agreement with the Consultant. Such planning services shall include, but not be limited to, review of applications for legislative approvals, project permit applications, drafting staff reports to decision-makers, attending hearings and meetings relating to same, drafting public notices and other decision-documents and ensuring that project permit applications are timely reviewed and processed according to law.

The Consultant represents and warrants that it and any staff member or subconsultant assigned to the work will have the requisite training, skill, and experience necessary to provide the services required by this Agreement and if required, are appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant and its subconsultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

## **II. Payment**

A. The City shall pay the Consultant an hourly rate of the Planner as described in the billing rates in Exhibit A, not to exceed Twenty Nine Thousand and Sixty Four Dollars (\$29,064.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

## **III. Relationship of Parties**

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

## **IV. Duration of Work**

The City and the Consultant agree that work will begin on the tasks described in Section I on January 1, 2015, upon execution of this Agreement. The parties agree that the individual projects assigned to the Consultant may have individual deadlines for completion that must be met. This Agreement shall terminate on March 31, 2015 as provided in Section I.

## **V. Termination**

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Section I. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

## **VI. Discrimination**

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

## **VII. Indemnification**

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, to the extent arising out of or connection with the performance of professional services under this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

### **VIII. Insurance**

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for

coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant agrees that the Consultant shall provide prior written notification to the City of Black Diamond at least 3 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

### **IX. Exchange of Information**

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

### **X. Ownership and Use of Records and Documents**

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

### **XI. City's Right of Inspection**

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the applicable deadlines established by the City for completion, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

## **XII. Consultant to Maintain Records to Support Independent Contractor Status**

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all Items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

## **XIII. Work Performed at the Consultant's Risk**

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

## **XIV. Non-Waiver of Breach**

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

## **XV. Resolution of Disputes and Governing Law**

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Community Development Director's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

## **XVI. Written Notice**

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

### **CONSULTANT:**

Attn: Wayne Carlson  
AHBL, Inc.  
2215 N 30th Street  
Suite 300  
Tacoma, WA 98403

### **CITY:**

Attn: Aaron Nix  
City of Black Diamond  
P.O. Box 599  
24301 Roberts Drive  
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

## **XVII. Assignment**

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

## **XVIII. Modification and Severability**

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

## **XIX. Entire Agreement**

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached

hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 18<sup>th</sup> day of December, 2014.

**CONSULTANT**

**CITY OF BLACK DIAMOND**

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

By: \_\_\_\_\_  
Carol Benson, Mayor

Note: The above requires the president of the corporation to sign.

**Consultant:**

**AHBL, Inc.**  
2215 North 30th Street, Suite  
300 Tacoma, WA 98403-3350

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney's Office

**ATTEST:**

\_\_\_\_\_  
City Clerk

## EXHIBIT A

This scope of work is for immediate onsite development review assistance, and a potential need for other planning services as directed by City staff. Work will primarily include review of land use applications for consistency with municipal standards, zoning review of building permit applications under deadlines established by law, and general customer assistance for planning and zoning issues. Following is our proposed scope of services:

- Provide one planner for three to four-days per week at City Hall for a total of 24 hours;
- Provide additional short term development review assistance as needed;
- Specific duties include:
  - Attend pre-application meetings;
  - Conduct site visits;
  - Conduct the review of project permit applications for code compliance in a timely manner, keeping in mind the deadlines for the City to issue a final decision by law;
  - Review SEPA documentation for purposes of recommending additional studies, SEPA determination, and/or mitigation measures to you as the SEPA Responsible Official;
  - Communicate and coordinate with applicants, their consultants, and other City department staff;
  - Prepare staff reports and recommendations in a timely manner;
  - Present reports to the Hearing Examiner, Planning Commission, and City Council; and
  - Keep track of project permit applications in the review process, to ensure that a final decision issues in a timely manner;
  - Provide additional planning services, long range planning, and code revision assistance, as needed.

Wayne Carlson will serve as project manager and principal-in-charge for AHBL to provide day-to-day oversight of our planners and will coordinate with City staff to make sure that we are meeting the City's needs. Planners Stan May (primary staff member at \$100/hour), Annalisa McDaniel (\$100/hour), and/or Brittany Kubinski (\$100/hour) will provide staffing as needed (See resumes for additional detail). Wayne Carlson (\$190/hour) and Brad Medrud (\$156/hour) will provide quality assurance/quality control as authorized.

Wayne Carlson will contact the City on a regular basis throughout the term of the contract to discuss staffing needs and adjust staffing levels accordingly. As principal-in-charge, Wayne will be involved to ensure that AHBL brings the appropriate additional resources to the projects as needed. AHBL understands that the City has a cost-recovery system in its fee schedule for consultant review of development applications (actual cost + 10 percent). We are accustomed to tracking our time by each project and will format our invoices in a manner consistent with the City's cost-recovery system.

All planning services, including development review, contract management, quality control, and review by senior staff, and any assistance with code revisions or other planning services will be based on the attached rate sheet. AHBL will seek your authorization for the use of any staff member outside of those people included herein.



## **Wayne Carlson, AICP, LEED AP** **Principal-in-Charge & Project Manager**

Wayne Carlson is a land use planner with 20 years of professional planning experience for cities, counties, state agencies, and private clients throughout Washington. Wayne has served as an extension of in-house staff for the review of development proposals in the cities of Bonney Lake, Milton, and Pacific as well as the Bethel School District. He also has both reviewed and authored environmental reports and assessments for projects under the Washington State Environmental Policy Act (SEPA), the California Environmental Quality Act (CEQA), and the National Environmental Policy Act (NEPA). Wayne has been involved with several master planned communities and resorts. His long-range planning experience includes preparing city comprehensive plans, sub-area community plans, and shoreline master program updates. Wayne has prepared and administered numerous code amendments to zoning, landscape, subdivision, sign, and telecommunications ordinances. He authored the first design standards for Pierce County and has been on the leading edge of incorporating low impact development into local codes and standards by working with more than 75 Washington and California municipalities since 2005 to prepare code amendments.

### **EDUCATION**

The Ohio State University, Master of City and Regional Planning with Distinction, 1994

California State University, Fullerton, B.A. in Political Science, Cum Laude, 1991

### **REGISTRATION**

American Institute of Certified Planners, 1996

LEED® Accredited Professional, U.S. Green Building Council, 2004

### **SELECTED PROJECT EXPERIENCE**

**SEPA Administration and Development Review, City of Pacific, WA, Principal-in-Charge and Project Manager**

**SEPA Administration and Development Review, City of Milton, WA, Project Manager**

**SEPA Administration and Development Review, City of Bonney Lake, WA, Project Manager**

**Pierce College Puyallup Master Plan, Pierce College, Puyallup, WA, Project Manager**

**Pierce College Fort Steilacoom Master Plan, Lakewood, WA, Project Manager**

**Bethel High School #3 Expanded Checklist and Managed SEPA Administration (Lead Agency), Bethel Public Schools, Spanaway, WA, Project Manager**

**Bethel Junior High School #5 Expanded Checklist and Managed SEPA Administration (Lead Agency), Bethel Public Schools, Spanaway, WA, Project Manager**

**Kapowsin Elementary School Expanded Checklist and Managed SEPA Administration (Lead Agency), Bethel Public Schools, Spanaway, WA, Project Manager**

**South Hill Community Plan EIS, Pierce County, WA, Project Manager**

**Upper Nisqually Valley Community Plan, Pierce County, WA, Project Manager**

**Parkland-Spanaway-Midland Communities Plan, Pierce County, WA, Project Manager**

**Sybil Brand Institute Women's Maximum Security Prison CEQA EIR, Los Angeles County Sheriff Department, Los Angeles, CA, Project Manager**

**Puget Sound Partnership Low Impact Development Direct Technical Assistance, Anacortes, Bellingham, Bremerton, Coupeville, Eatonville, Edmonds, Everett, Federal Way, Hamilton, Issaquah, Kent, Kirkland, Lacey, Lake Forest Park, Lake Stevens, Marysville, Mill Creek, Mukilteo, Normandy Park, Oak Harbor, Port Angeles, Port Orchard, Port Townsend, Poulsbo, Redmond, Sequim, Woodinville, Clallam County, Island County, Jefferson County, Kitsap County, Mason County, San Juan County, Snohomish County, Thurston County, and Whatcom County, WA, Principal-in-Charge and Project Manager**



## **Stan May, AICP Planner**

### *SUMMARY OF QUALIFICATIONS*

- Comprehensive Plan updates and amendments
- Zoning and development code updates
- Shoreline Master Program updates
- Critical Areas Ordinance updates
- Update Flood Damage Prevention regulations for compliance with FEMA's new flood insurance requirements for protection of endangered species
- State Environmental Policy Act (SEPA) documents
- Presentations to councils and planning commissions
- Facilitate workshops and other public participation events.
- Development permit reviews
- ESRI ArcGIS software

### *EDUCATION*

Master of Urban Planning,  
University of Washington  
  
Bachelor of Science, Computer  
Information Systems, City  
University

### *CERTIFICATION*

American Institute of Certified  
Planners (AICP)

### *PROFESSIONAL AFFILIATIONS*

Member of American Planning  
Association

Previously active in the local APA  
Chapter as the Puget Sound  
Section's Brown Bag Coordinator,  
organizing up to twenty AICP  
Certification Maintenance credit-  
approved lunch time training  
sessions per year.

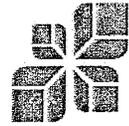
### *EXPERIENCE*

#### **Senior Long Range Planner - Lewis County, Chehalis, WA (2012-2014)**

- Project manager for yearly comprehensive plan amendments.
- Updated Flood Damage Prevention regulations to comply with FEMA Community Assistance Visit.
- Project manager for the County Coalition Shoreline Master Program update.
- Established the planning commission's annual work plan and schedule.
- Made presentation and staff recommendations to the planning commission and county commissioners.
- Updated large lot subdivision regulations for consistency with zoning code.
- Staff lead for the Lewis County Planned Growth Committee which included recommended updates to the Countywide Planning Policies.
- Initiated complete zoning code streamlining and update.
- Member of the Airport Planning Advisory Committee.
- Performed GIS analysis.
- Reviewed development permit and land division applications including compliance with SEPA, critical areas and shoreline regulations.
- Initiated, organized and mediated a county project presentation at the American Planning Association's Planning Law Conference.

#### **Principal Planner - Stan May Planning, Seattle, WA (2011-2012)**

- Project manager for a Shoreline Master Program update.
- Project manager for a Zoning code update.
- Reviewed development permits including State Environmental Policy Act (SEPA) compliance.



## **Sara Coccia**

### **Planner**

Sara Coccia is a land use planner with 7 years of progressive responsibility on a variety of planning projects. Sara's experience includes environmental review and permitting, site design, feasibility studies, land use submittals, and coordination with local jurisdictions. Sara often serves as the liaison between residential clients and public agencies, working closely with the permitting jurisdiction to interpret codes and design creative, affordable solutions perfectly tailored to the City's requirements. Sara consistently receives positive feedback from her clients for her strong communication skills and proactive identification of land use issues that will impact the project schedule.

#### **SELECTED PROJECT EXPERIENCE**

**Pacific On-call Planning, City of Pacific, WA, Planner**

**Newcastle On-call Planning & Counter Service, City of Newcastle, WA, Planner**

**Peninsula School District Study and Inventory, Gig Harbor, WA, Planner**

**Bonney Lake Annexation Study, City of Bonney Lake, WA, Planner**

**West Richland Shoreline Master Program Update & GIS Mapping, City of West Richland, WA, Planner**

**Gold Bar Shoreline Master Program Update & GIS Mapping, City of Gold Bar, WA, Planner**

**Roy Shoreline Master Program Update & GIS Mapping, City of Roy, WA, Planner**

**Snoqualmie Shoreline Master Program Update & GIS Mapping, City of Snoqualmie, WA, Planner**

**Federal Way Parks, Recreation & Open Space Plan Update, City of Federal Way, WA, Planner**

**Lindbergh High School and Hazen High School Athletic Field SEPA, Renton School District, Renton, WA, Planner**

#### **EDUCATION**

University of Redlands, Redlands, California, B.A. Environmental Studies, Minor in Studio Art, 2006



## **Annalisa McDaniel** **Planner**

Annalisa McDaniel is an urban and land use planner with a variety of experience assisting public sector, private sector, and nonprofit clients with the preparation of comprehensive plan amendments, Shoreline Master Program updates, market analyses, and affordable housing strategies. She is particularly adept at helping local communities shed light on how land use policy affects future development potential and can guide development in a manner that is sustainable and community oriented. With proficiency in GIS, Annalisa supports community planning projects through mapping, visual resource assessment, and environmental impact analysis. Her specialized mapping and analysis experience includes data collection and creation, spatial analysis, development suitability analysis, and land capacity forecasting.

### **EDUCATION**

University of Washington, Bachelor  
of Arts, Geography (GIS), 2006

University of Colorado, Master  
of Urban and Regional Planning,  
2012

### **SELECTED PROJECT EXPERIENCE**

**Bellevue LID Code Integration**, Bellevue, WA, *Planner*

**Lewis County Shoreline Master Program Update**, Lewis County, WA, *Planner*

**West Richland Comprehensive Plan Update**, City of West Richland, WA,  
*Planner*

**Denver Transit-Oriented Development Fund Affordable Housing GIS  
Database**, Denver, CO, Technical author (Data Analysis, GIS), *Research Analyst\**

**Dallas Area Rapid Transit Transit Oriented Development Analysis**, Dallas, TX,  
Technical author (Land Use Patterns, Market Analysis, Transportation), *Research  
Analyst\**

**Rifle Downtown Transit Oriented Development Strategic Plan**, Rifle, CO,  
Technical author (Land Use, Transportation, Market Feasibility, Public Services),  
*Research Analyst\**

**Bernalillo County Bridge Boulevard Redevelopment Plan**, Bernalillo County,  
NM, Technical author (Land Use, Market Feasibility, GIS), *Research Analyst\**

**Ute Theater Market and Feasibility Analysis**, Rifle, CO, Technical author  
(Market Analysis, Public Services), *Research Analyst\**

**E-470 Public Highway Authority Property Development Analysis**, Aurora,  
CO, Technical author (Land Use, Plans and Policies, Public Services), *Research  
Analyst \**

**Sacramento Railyards Low Income Housing Tax Credit Study**, Sacramento,  
CA, Technical author (Land Use, Plans and Policies, Public Services), *Research  
Analyst\**

*\* indicates project completed with previous employer*



## **Brittany Kubinski** **Planner**

Brittany Kubinski is a land use planner with professional experience in both current and long-range planning projects. Brittany has worked on a variety of policy planning projects, shoreline master programs and zoning code updates for public-sector clients in Washington and California. Brittany has assisted with several code amendments to zoning, landscape and subdivision ordinances particularly as they pertain to incorporating low impact development. She is proficient in GIS and brings experience in data collection and analysis including land capacity analysis and forecasting.

### *SELECTED PROJECT EXPERIENCE*

**Aberdeen, Hoquiam and Cosmopolis Shoreline Master Program Update & GIS Mapping, Cities of Aberdeen, Hoquiam and Cosmopolis, WA, Planner**

**Bellevue LID Code Integration, City of Bellevue, WA, Planner**

**California Stormwater Quality Association Proposition 84 LID Code Updates, Various Municipalities, CA, Planner**

**Kitsap County Code & Stormwater Manual LID Integration, Kitsap County, WA, Planner**

**Lewis County Shoreline Master Program Update & GIS Mapping, Lewis County, WA, Planner**

**Montesano Shoreline Master Program Update & GIS Mapping, City of Montesano, WA, Planner**

**Ocean Shores Shoreline Master Program Update & GIS Mapping, City of Ocean Shores, WA, Planner**

**Westport Shoreline Master Program Update & GIS Mapping, City of Westport, WA, Planner**

### *EDUCATION*

The Ohio State University, Master  
of City & Regional Planning, 2014

The Ohio State University, B.S.,  
City & Regional Planning, Magna  
*Cum Laude*, 2009



## **Brad Medrud, AICP**

Brad Medrud is a land use planner and project manager with 16 years of professional experience in both the public and private sectors with a variety of current and long-range planning projects. His expertise includes feasibility studies, annexations, policy analysis, community planning, project review and entitlement, SEPA documentation and management, public participation, and code updates. Brad has completed numerous land use feasibility studies, including a project for the Mountain Meadow site in Pierce County. Brad managed the 20-acre site that was zoned for 2/3 single-family small lot and 1/2 multifamily. Through the study, Brad determined the residential development was not feasible, so he assisted the client with examining the possibility of a storage use on site. The study determined this was feasible, and we are now working on a rezone to allow for the construction of a Garage+ storage facility. In addition, he has prepared and administered SEPA environmental review as an extension of staff to the cities of Burien, Bonney Lake and Milton, the Federal Way Public Schools, the Renton School District, the Orting School District, the Fife School District and the White River School District.

### **EDUCATION**

University of Washington, Master of Urban Planning, 1997

University of Wisconsin-Madison, M.A., History, 1991

Pacific Lutheran University, B.A., History and Philosophy, *Cum Laude*, 1989

### **REGISTRATION**

American Institute of Certified Planners (AICP), 1999

### **SELECTED PROJECT EXPERIENCE**

**Development Application Review**, City of Bonney Lake, WA, *Project Manager*

**Development Application Review**, City of Milton, WA, *Project Manager*

**Development Application Review**, City of Pacific, WA, *Project Planner*

**SEPA Administration and Development Review**, City of Bonney Lake, WA, *Project Manager*

**SEPA Administration and Development Review**, City of Milton, WA, *Project Manager*

**Lloyd's Master Plan SEPA Administration and Development Review**, City of Milton, WA, *Project Manager*

**SEPA Administration and Development Review**, City of Pacific, WA, *Project Manager*

**Capital Facilities Plan Adoption SEPA Process**, Eatonville School District, Eatonville, WA, *Project Manager*

**Sequoia Middle School Expanded SEPA Checklist and Managed SEPA Review**, Federal Way Public Schools, Federal Way, WA, *Project Manager*

**Midway Elementary Replacement SEPA Environmental Review**, Highline School District, Des Moines, WA, *Project Manager*

**Orting Middle School and Stadium Expanded SEPA Checklist and Managed SEPA Review**, Orting School District, Orting, WA, *Project Manager*

**Capital Facilities Plan Adoption SEPA Process**, Peninsula School District, Gig Harbor, WA, *Project Manager*

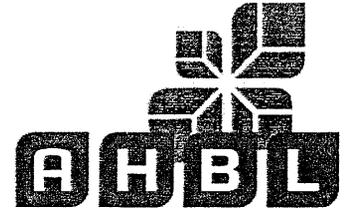
**Serenity Estates Subdivision**, King County, WA, *Project Manager*

**River Ridge Heights Residential Subdivision**, Lacey, WA, *Project Manager*

**Royal Firs Small Lot Subdivision**, South Hill, Pierce County, WA, *Project Manager*

**Summerset PUD Self-Help Housing Project**, Poulsbo, WA, *Project Manager*

**Edgewood Johnson Subdivision**, Edgewood, WA, *Project Manager*



## SCHEDULE OF CHARGES AND COMPENSATION

Principal.....	205.00/Hour	CAD Operator 1 .....	75.00/Hour
Associate Principal.....	185.00/Hour	Planner 5.....	125.00/Hour
Sr. Project Manager.....	173.00/Hour	Planner 4.....	110.00/Hour
Project Manager.....	165.00/Hour	Planner 3.....	100.00/Hour
Director of Landscape Architecture.....	160.00/Hour	Planner 2.....	85.00/Hour
Sr. Planning Project Manager.....	156.00/Hour	Planner 1.....	75.00/Hour
Planning Project Manager.....	145.00/Hour	Landscape Project Manager 2.....	125.00/Hour
Sr. Landscape Project Manager.....	137.00/Hour	Landscape Project Manager 1.....	110.00/Hour
Survey Project Manager.....	160.00/Hour	Landscape Designer 3 .....	100.00/Hour
Chief of Parties.....	145.00/Hour	Landscape Designer 2.....	85.00/Hour
Project Engineer 5.....	150.00/Hour	Landscape Designer 1.....	75.00/Hour
Project Engineer 4.....	130.00/Hour	Planning/Landscape Technician .....	70.00/Hour
Project Engineer 3.....	115.00/Hour	Survey Technician 3.....	110.00/Hour
Project Engineer 2.....	105.00/Hour	Survey Technician 2.....	100.00/Hour
Project Engineer 1.....	95.00/Hour	Survey Technician 1.....	90.00/Hour
Project Designer 3.....	135.00/Hour	Survey Crew.....	190.00/Hour
Project Designer 2.....	125.00/Hour	1-Man Survey Crew .....	130.00/Hour
Project Designer 1.....	110.00/Hour	Graphic Designer .....	95.00/Hour
Project Administrator.....	102.00/Hour	Word Processor .....	85.00/Hour
Engineer Technician 3 .....	110.00/Hour	Administrative Assistant .....	70.00/Hour
Engineer Technician 2 .....	98.00/Hour	Outside Consultants.....	Separate Fee Proposal
Engineer Technician 1 .....	85.00/Hour	Geotechnical Engineers.....	Separate Fee Proposal
CAD Operator 3.....	95.00/Hour	Environmental Consultants.....	Separate Fee Proposal
CAD Operator 2.....	90.00/Hour		

Large Format Black & White Bond.....	0.25/sf
Large Format Color Bond.....	4.00/sf
Large Format Mylar.....	2.00/sf
Small Format Color Bond 11 X 17.....	0.50/Sheet
Small Format Color Bond 8.5 X 11.....	0.40/Sheet

**The Schedule of Charges and Compensation is subject to change.**

Charges are made for technical typing, as in the preparation of reports, and for technical clerical services directly related to projects. Direct charges are not made for general secretarial services, office management, accounting, or maintenance.

# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b> AB14-127	<b>Agenda Date:</b> December 18, 2014	<b>AB14-127</b>
<b>Ordinance No. 14-1044, repealing Chapter 16 (Comprehensive Plan) of BDMC and replacing it with revised language.</b>	Department/Committee/Individual	
	Mayor Carol Benson	
	City Attorney – Carol Morris	X
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	CD/Natural Resources – Aaron Nix	X
	PW/Ec. MDRT/Ec. Dev. – Andy Williamson	
Cost Impact: N/A	Police – Jamey Kiblinger	
Fund Source: N/A	Court – Stephanie Metcalf	
Timeline: N/A		

**Agenda Placement:**  Mayor  Two Councilmembers  Committee Chair  City Administrator

**Attachments: Ordinance No. 14-1044 and Exhibit A, Public Participation Plan**

### SUMMARY STATEMENT:

The City of Black Diamond is an optional code city, which is governed by Title 35A RCW. As a result, it is required to appoint a planning commission (RCW 35A.63.020), which makes prepares the City’s comprehensive plan and amendments for consideration by the public/City Council (RCW 35A.63.060), and holds public hearings on the plan and amendments (RCW 35A.63.070). Thereafter, the City Council considers the planning commission’s recommendation (RCW 35A.63.072), as well as the public input, and makes a final decision whether to adopt the plan/amendments. Once the comprehensive plan is adopted, the City must adopt development regulations to implement the comprehensive plan. These development regulations divide the City into zones, and describe specific standards and other regulations addressing the use of land, density, bulk, number of stories, size of buildings, yards, parking, design, etc. (RCW 35A.63.100.)

Black Diamond plans under the Growth Management Act (“GMA,” chapter 36.70A RCW). As a result, the City’s comprehensive plan must include certain elements (RCW 36.70A.070) and the development regulations must be consistent with the comprehensive plan (RCW 36.70A.130). GMA also establishes a new procedure for adoption of comprehensive plan and development regulation amendments. These new procedures address public notice, public participation in the amendment process, transmitting copies of the City’s draft ordinances to the Washington Department of Commerce prior to and after adoption, and allow appeals to the Growth Management Hearings Board.

The attached draft ordinance describes the process for the City to adopt legislative comprehensive plan and development regulations consistent with law. There is also a public participation program (required by GMA, RCW 36.70A.140 and attached as an exhibit to the draft ordinance), which identifies the procedure for early and continuous public participation in

the development and amendment of comprehensive plan and development regulation amendments.

**Fiscal Note:** N/A

COMMITTEE REVIEW AND RECOMMENDATION: The Planning and Community Services Committee (April 2014) recommended that these materials be submitted to the Planning Commission for review and discussion. A subsequent Public Hearing was held by the Planning Commission (November 18, 2014). A recommendation was made by the Planning Commission, after the hearing, to approve the current version of Chapter 16 and the attached Public Participation Plan.

RECOMMENDED ACTION: **MOTION to adopt Ordinance No. 14-1044, repealing Chapter 16 of BDMC and approving new provisions related to amending the Black Diamond Municipal Code provisions relating to adoption of Comprehensive Plan and development regulation amendments and the implementation of a public participation plan for this process.**

**RECORD OF COUNCIL ACTION**

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 18, 2014		

**ORDINANCE NO. 14-1044**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE BLACK DIAMOND MUNICIPAL CODE PROVISIONS RELATING TO ADOPTION OF COMPREHENSIVE PLAN AND DEVELOPMENT REGULATION AMENDMENTS, ELIMINATING ALL OF THE CITY'S EXISTING CODE PROVISIONS ON THE SUBJECT, AND ADOPTING NEW PROCEDURES WHICH DESCRIBE THE DIFFERENT TYPES OF DEVELOPMENT REGULATION AND COMPREHENSIVE PLAN AMENDMENTS, IDENTIFY WHO MAY SUBMIT SUCH AMENDMENTS, WHEN THEY MAY BE SUBMITTED, LIST THE REQUIREMENTS FOR A COMPLETE APPLICATION FOR AN AMENDMENT, IDENTIFY THE REQUIREMENTS FOR NOTICE OF PUBLIC HEARINGS, DESCRIBE THE PROCEDURE FOR PROCESSING AMENDMENTS, THE CRITERIA FOR APPROVAL, THE PROCEDURE FOR ISSUANCE OF A FINAL DECISION, AND DESCRIBES THE PLANNING COMMISSION'S RESPONSIBILITIES WITH REGARD TO MAKING RECOMMENDATIONS FOR AMENDMENTS, HOLDING PUBLIC HEARINGS AND MAKING RECOMMENDATIONS, REPEALING BLACK DIAMOND MUNICIPAL CODE SECTIONS 16.10.005, 16.10.010, 16.20.010, 16.30.010, 16.30.020, 16.30.030, 16.30.040, 16.30.050, 16.30.060, 16.30.070, 16.30.080, 16.30.090, 16.30.100, 16.30.110, 16.30.120 AND 16.30.130; ADOPTING A NEW CHAPTER 16.10 TO THE BLACK DIAMOND MUNICIPAL CODE AND ADDING AN EFFECTIVE DATE.**

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WHEREAS, the City's procedures for the adoption of comprehensive plan and development regulation amendments are outdated and need to be revised; and

WHEREAS the SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC 197-11-800(19); and

WHEREAS, public notice of a public hearing was provided and the Planning Commission held a public hearing on this ordinance on November 18, 2014; and

WHEREAS, the Community Development/Natural Resources Director submitted the DRAFT Ordinance (**AMENDMENTS TO THE COMPREHENSIVE PLAN AND**

**DEVELOPMENT REGULATIONS**), to the Washington State Department of Commerce on December 4, 2014 and requested expedited review by the Department; and

WHEREAS, the Planning Commission's recommendation on this Ordinance was forwarded to the City Council; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting on December 18, 2014; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. Sections 16.10.005 and 16.10.010 of the Black Diamond Municipal Code are hereby repealed.

Section 2. Section 16.20.010 of the Black Diamond Municipal Code is hereby repealed.

Section 3. Sections 16.30.010, 16.30.020, 16.30.030, 16.30.040, 16.30.050, 16.30.060, 16.30.070, 16.30.080, 16.30.090, 16.30.100, 16.30.110, 16.30.120, and 16.30.130 of the Black Diamond Municipal Code are hereby repealed.

Section 4. A new Chapter 16.10 is hereby added to the Black Diamond Municipal Code, which shall read as follows:

**CHAPTER 16.10  
AMENDMENTS TO THE  
COMPREHENSIVE PLAN AND DEVELOPMENT  
REGULATIONS**

**Sections:**

**16.10.010 Purpose and Types of Amendments.**

**LEGISLATIVE AMENDMENTS TO DEVELOPMENT REGULATIONS**

**16.10.020 Administration of Amendments to Development Regulations.**

**16.10.030 Procedure for Amendments to Development Regulations.**

**16.10.040 Submission of Applications for Amendments to Development Regulations.**

**16.10.050 Requirements for a Complete Application.**

**16.10.060 SEPA Compliance and Transmittal to State.**

**16.10.070 Public Notice.**

**16.10.080 Planning Commission Public Hearing.**

**16.10.090 City Council Action.**

**16.10.100 Final Decision, Transmittal to State and Appeals.**

**16.10.110 Appeal of Amendments to Development Regulations.**

**COMPREHENSIVE PLAN ADOPTION AND AMENDMENT**

**16.10.120 Administration of Annual Comprehensive Plan Amendments.**

**16.10.130 Submission of Applications.**

**16.10.140 Preliminary Docket.**

**16.10.150 Optional City Council/Planning Commission Workshop on Preliminary Docket.**

**16.10.160 Planning Commission Hearing on Preliminary Docket.**

**16.10.170 City Council Decision – Adoption of Final Docket.**

**16.10.180 Final Docket – Contents.**

**16.10.190 Effect of Final Docket.**

**16.10.200 SEPA on Final Docket.**

**16.10.210 Planning Commission Public Hearing on Final Docket.**

**16.10.220 Evaluation Criteria for Proposed Amendments.**

**16.10.230 City Council Action.**

**16.10.240 Final Decision, Transmittal to State and Appeals.**

**16.10.250 Planning Commission Periodic Assessment – Recommendations on Amendments.**

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**16.10.010 Purpose and Types of Amendments.**

A. Purpose. The purpose of this chapter is to establish procedures for legislative amendment of the City's Comprehensive Plan map/text and the Development Regulations. In addition, this chapter will describe the City's Public Participation process, which is intended to solicit comments and suggested amendments to the City's Comprehensive Plan and Development Regulations for consideration. The Public Participation process described herein is supplemented by a booklet that provides additional detail.

B. Comprehensive Land Use Plan and Development Regulations. The Comprehensive Land Use Plan is defined as the generalized, coordinated land use policy statement of the City, and the accompanying map, adopted under the Growth Management Act (chapter 36.70A RCW). The Development Regulations are the controls placed on development or land use activities by the City, including, but not limited to, the City's codes on zoning, critical areas, official controls, planned unit developments, subdivisions, binding site plans and the Shoreline Master Program.

C. Types of Amendments. The applications that will be processed under this Chapter as legislative amendments are Comprehensive Plan Amendments to the Comprehensive Plan Map or Policies and Development Regulation Amendments (to the text of the Development Regulations) which do not implement the existing Comprehensive Plan.

**16.10.020 Administration of Legislative Amendments to Development Regulations.** The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed legislative amendments to the Development Regulations, and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission's recommendation during a public meeting or a public hearing and shall make a final decision.

**16.10.030 Procedure for Amendments to Development Regulations.** The following steps shall be followed in the processing of applications for Amendments to Development Regulations.

- A. Section 16.10.040(C): Director's Determination that the Application is Complete;
- B. Section 16.10.060: SEPA Compliance and Transmittal to State;
- C. Section 16.10.070: Notice of Public Hearing;
- D. Section 16.10.080: Public Hearing before the Planning Commission;
- F. Section 16.10.090: City Council consideration of application;
- G. Section 16.10.100: Final Decision, transmittal to state;
- H. Section 16.10.110: Appeal to Growth Management Hearings Board (if any).

**16.10.040 Submission of Applications for Amendments to Development Regulations (Who May Submit and When).**

A. Who May Submit Applications. Any interested person, including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may submit an application for an amendment of a Development Regulation.

B. When Applications May Be Submitted. The text of the City's adopted Development Regulations may be amended at any time, provided that the amendment is consistent

with the City's Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary Plan amendments using the process and timelines for Comprehensive Plan Amendments in Sections 16.10.120 through .240 of this chapter. Applications that do not include the information required in Section 16.10.050 shall not be processed.

C. Director's Determination that the Application is Complete. The Director shall review the application(s) after submission to determine whether the application(s) include the information required by Section 16.10.050. Applicants shall be notified if additional information is required, but this procedure is not subject to the determination of completeness in RCW 36.70B.070 for project permits.

**16.10.050 Requirements for a Complete Application.** The following materials shall be submitted to the City for a complete application for a Development Regulation Amendment (or Comprehensive Plan Amendment, if applicable):

- A. An application form provided by the City;
- B. Name, address, phone number and e-mail of the applicant and if the applicant is not the property owner, proof of the property owner's consent to the submission of the application;
- C. Name, address, phone number and e-mail of the owner of the property identified in the application (if applicable);
- D. A legal description of the property, if applicable;
- E. A description of the proposed Amendment and any associated development proposals, if applicable. Formal site-specific or project-related amendments shall include plans, information and/or studies that accurately depict existing and proposed uses(s) and improvements. Proposed site-specific or project related Amendments that do not specify propose use(s) and potential impacts will be assumed to have maximum impact to the environment, public facilities and services;
- F. Proposed amendatory language, preferably shown in "bill" format (*i.e.*, new language underlined; language proposed for deletion in strikeouts);
- G. An explanation of the rationale for the proposed Amendment;
- H. An explanation of how the proposed Amendment and associated development proposal(s) if any, conform to, conflict with, or relate to the criteria set forth in Section 16.10.220;
- I. A completed SEPA checklist including the supplement sheet for nonproject actions (if applicable);
- J. Application fee as set forth in the City's resolution adopted for this purpose; and
- K. Any additional information reasonably deemed necessary by the Planning Director to evaluate the proposed amendment.

**16.10.060 SEPA Compliance and Transmittal to State.** If an application for an Amendment to the Development Regulations is submitted outside of the annual Comprehensive Plan Amendment process, SEPA shall be performed on the application as set forth in chapter 19.04 (City's SEPA ordinance). If applicable, the City shall notify the State Department of Commerce of its intent to adopt the proposed amendment(s) to the Development Regulations at least sixty (60) days prior to final adoption.

**16.10.070 Public Notice.**

A. Notice of any public hearing on an application for an Amendment to a Development Regulation submitted outside of the annual Comprehensive Plan Amendment process set forth in this chapter, shall be given by one publication in the official newspaper of the City at least 10 days prior to the date of the hearing and by posting a copy of the notice of public hearing in City Hall and on the City's website. Additional notice may be required by state or local law (e.g., statutory notice requirements for amendments to the Shoreline Master Program), or additional notice may be provided as deemed appropriate by the Director.

B. The public notice shall include the following:

1. The purpose(s) of the Amendment;
2. The deadline for submitting comments on the Amendment;
3. A tentative hearing schedule; continued hearings may be held by the

Planning Commission but no additional notices need be published.

**16.10.080 Planning Commission Public Hearing.** The Planning Commission shall hold a public hearing on an application for an Amendment to a Development Regulation and shall make a recommendation to the City Council, using the criteria set forth in Section 16.10.220, as applicable. There is no limit on the number of public hearings or continuation of public hearings that the Commission (or City Council) may hold on a proposed Amendment.

**16.10.090 City Council Action.** The City Council shall consider the proposed Amendment to the Development Regulations and the Planning Commission's recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 2.1.220, as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

**16.10.100 Final Decision, Transmittal to State and Appeals.** If the City Council decides not to adopt the proposed Amendment to the Development Regulations, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed Amendment to the Development Regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.

**16.10.110 Appeal of Legislative Amendments to Development Regulations.** Appeals of the City's final decision may be filed with the Growth Management Hearings Board, pursuant to RCW 36.70A.290.

**16.10.120 Administration of Annual Comprehensive Plan Amendments.**

A. Legislative Amendments to the Comprehensive Plan. The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed Comprehensive Plan amendment(s), and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission's recommendation during a public meeting or a public hearing and make a final decision.

B. Development Agreement. A Legislative Amendment to the Comprehensive Plan that is site-specific may be approved subject to the execution, delivery and recording of a Development Agreement between the City Council and the property owner of the subject property (or the legal owner of a beneficial interest in the subject property). The Development Agreement may impose conditions to address the criteria set forth in Section 16.10.220, and approval of the Comprehensive Plan Amendment shall be conditioned upon performance or compliance with the terms and conditions of the Development Agreement. The City may revoke (or take other action allowed by law) a Comprehensive Plan Amendment executed with a Development Agreement for failure to comply with the Development Agreement. An applicant proposing a Comprehensive Plan Amendment with a Development Agreement shall submit the proposed Development Agreement with the application materials described in Section 16.10.050. The City will evaluate the proposed Development Agreement together with the proposed Comprehensive Plan Amendment (*see* Chapter 18.66 on Development Agreements), to determine whether the Amendment should be approved.

**16.10.130 Submission of Applications (Who May Submit and When).**

A. Who May Submit Applications for Amendments Related to a Site-Specific Development Proposal. Proponents of land development projects and/or property owner(s) or their authorized representative(s), may file an application for a proposed Amendment to the Comprehensive Plan relating to a site-specific proposal. The complete application shall consist of the materials described in Section 16.10.050. The application filing fee as set forth in the City's fee resolution shall accompany the application, which shall also require the applicant to pay for the applicant's portion of the SEPA review attributable to the application.

B. Who May Suggest Amendments. Any interested person, including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may suggest an Amendment to the Comprehensive Plan. Generally, suggested Amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the Comprehensive Plan rather than amendments designed to address site-specific issues of limited applicability. If an application is not submitted for the suggested Amendment by the interested person, the Planning Director shall include the suggested Amendment on a Docket that is maintained each year for this purpose. The process described in Sections 16.10.160 through .170 of this chapter shall resolve the question whether such suggested Amendments will be considered during the annual review process.

C. Amendments Considered Once a Year. Applications for Amendments to the City's Comprehensive Plan may not be considered more frequently than once every year, except: (1) under the circumstances described in RCW 36.70A.130(2)(i) through (v); (2) when needed to

resolve an emergency condition or situation that involves public health, safety or welfare and when adherence to the Amendment process set forth in this chapter would be detrimental to the public health, safety and welfare. Situations involving official legal or administrative action affecting the City will be reviewed by the City Council with advice from the City Attorney to determine whether an emergency exists warranting an emergency Comprehensive Plan Amendment. Except as otherwise provided in RCW 36.70A.130(2)(a), all Comprehensive Plan Amendments shall be considered concurrently so that the cumulative effect of the various proposals may be ascertained.

D. Deadline for Application Submittal. All applications for Comprehensive Plan Amendments shall be submitted to the Planning Director by March 1<sup>st</sup> of the current calendar year (or be included in the Director's docket of suggested amendments by this date) in order to be considered during that year's amendment process; except that City-sponsored proposals to amend the Capital Facilities Element of the Comprehensive Plan may be accepted later than other proposed amendments because of their relationship to the City's annual budget process. Applications that do not include the information required under subsection 16.10.050 for a complete application, or which are not received by the deadline set forth in this subsection, shall not be processed.

#### **16.10.140 Preliminary Docket.**

A. Contents. A preliminary docket shall be maintained by the Planning Director, which shall consist of the following:

1. All applications submitted before the March 1<sup>st</sup> deadline to amend the Comprehensive Plan;
2. All amendments suggested during the year by citizens, the Planning Commission, City Council, staff, departments or other agencies.

B. Planning Director Responsibilities. After compiling the preliminary docket, the Planning Director shall review the suggested amendments and prepare a report concerning which suggested amendments that the Planning Director believes should be placed on the final docket for consideration during the annual amendment process. In addition to addressing the need, urgency and appropriateness of each suggested amendment, the staff report shall include, but not be limited to, a consideration of the following:

1. The availability of sufficient planning staff to substantively review the suggested amendments and manage the public review process with available staff; and
2. Anticipated planning costs and budget for processing the suggested amendments.

**16.10.150 Optional City Council/Planning Commission Workshop on Preliminary Docket.** The City Council and Planning Commission may, but are not required to, hold a noticed joint workshop meeting to gather information regarding the items on the preliminary docket and the Planning Director's report and recommendation. If held, notice of the joint workshop meeting shall be given by publication in the City's official newspaper at least one time, ten (10) days prior to the date of the meeting and by posting a copy of the meeting notice at City Hall and the City's website, which shall include a statement of the purpose of the joint workshop.

**16.10.160 Planning Commission Hearing on Preliminary Docket.** The Planning Commission shall hold a noticed public hearing to accept public comment regarding the suggested amendments on the preliminary docket. Following the hearing, the Planning Commission shall prepare a report and recommendation identifying those suggested amendments that it is recommending for consideration by the City Council during the annual amendment process. The Planning Commission's recommendation shall be based upon the perceived need, urgency and appropriateness of each suggested amendment. The Planning Commission's report and recommendation shall also include those proposed amendments resulting from its periodic assessment set forth in Section 16.10.250, as applicable. Notice of the Planning Commission's hearing shall be given as set forth in Section 16.10.070.

**16.10.170 City Council Decision – Adoption of Final Docket.** The City Council shall review and consider the Planning Commission's report and recommended final docket at a regularly scheduled Council meeting. The City Council may adopt the Planning Commission's recommended final docket without a public hearing; however, in the event that a majority of the City Council decides to add or subtract suggested amendments, it shall first hold a public hearing, noticed as set forth in Section 16.10.070.

**16.10.180 Final Docket -- Contents.** The final docket adopted by the City Council shall include the following:

1. All applications for Comprehensive Plan Amendments for site-specific amendments timely submitted under Section 16.10.130; and
2. Any proposals for suggested amendments which the City Council elects to consider during the annual amendment process.

**16.10.190 Effect of Final Docket.** The City Council's decision to adopt the final docket does not constitute a decision or recommendation that the substance of any site-specific amendment or suggested amendment be adopted. No additional amendment proposals shall be considered by the City after adoption of the final docket for that year, except for those identified in RCW 36.70A.130(2)(i) through (v), and City-sponsored proposals to amend the capital facilities element of the Comprehensive Plan as set forth in RCW 36.70A.130(2)(a)(iv).

**16.10.200 SEPA on Final Docket.** The final docket as adopted by the City Council shall first be reviewed and assessed by the Planning Director, who shall prepare a staff report and recommendation on each proposed amendment. The Planning Director shall also be responsible for conducting SEPA review of all items on the final docket, as required by chapter 19.04 BDMC. As appropriate, the Planning Director shall solicit comments regarding the proposed amendments from the public and/or government agencies. The Planning Director shall also be responsible for providing notice and opportunity for public comment as deemed appropriate, given the nature of the proposed amendments and consistent with RCW 36.70A.140. and SEPA (chapter 43.21C RCW and chapter 197-11 WAC). Issuance of the SEPA threshold decision on the proposed Comprehensive Plan Amendments shall be coordinated such that if an appeal of the SEPA threshold decision is filed, the appeal can be considered under the procedure in chapter 19.04 BDMC.

**16.10.210 Planning Commission Public Hearing on Final Docket.**

A. All proposed amendments on the final docket shall be reviewed and assessed by the Planning Commission, which shall make a recommendation to the City Council after holding at least one public hearing.

B. After the public hearing(s), the Planning Commission shall develop findings and conclusions to support its recommendation to the City Council that the proposed amendment(s) be denied, approved, or approved with conditions or modifications.

**16.10.220 Evaluation Criteria for Proposed Amendments.** The Planning Commission shall review the proposed Amendments to the Comprehensive Plan and Development Regulations under the following criteria to develop findings and conclusions to support its recommendation:

A. All Amendments. All of the Comprehensive Plan Amendments shall be reviewed under the following criteria:

1. Whether the proposed amendment(s) conform to the Growth Management Act (chapter 36.70A RCW);
2. Whether the proposed amendment(s) are consistent with and implement the City's Comprehensive Plan, including the goals, policies and implementation strategies of the various elements of the Plan;
3. Whether circumstances related to the proposed amendment(s) and/or the area in which it is located have substantially changed since the adoption of the City's Comprehensive Plan;
4. Whether the assumptions upon which the City's Comprehensive Plan is based are no longer valid, or whether new information is available which was not considered during the adoption process or any annual amendments of the City's Comprehensive Plan; and
5. Whether the proposed amendment(s) reflects current, widely held values of the residents of the City.

B. Amendments for Site-Specific Proposals. In addition to the above, any proposal for a site-specific development or amendment shall be reviewed under the following criteria:

1. Whether the proposed site-specific amendment(s) meets concurrency requirements for transportation and does not adversely affect adopted level of service standards for other public facilities and services (*e.g.*, police, fire and emergency medical services, parks, fire flow and general governmental services);
2. Any proposed site-specific amendment(s) will not result in probable significant adverse impacts to the City's transportation network, capital facilities, utilities, parks and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities;
3. In the case of a site-specific amendment(s) to the Comprehensive Plan's Land Use Map, that the subject parcels are physically suitable for the requested land use designation and the anticipated land use development, including, but not limited to, the following: (i) access; (ii) provision of utilities; and (iii) compatibility with existing and planned surrounding land uses;
4. The proposed site-specific amendment(s) will not create pressure to change the land use designation of other properties, unless the change of land use designation for other properties is in the long-term best interests of the City as a whole;

5. The proposed site specific amendment(s) does not materially affect the land use and population growth projections that are the bases of the Comprehensive Plan;

6. If within an incorporated urban growth area (UGA), the proposed site-specific amendment(s) does not materially affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA;

7. The proposed amendment(s) is consistent with any applicable County-Wide Policies for the City and any other applicable inter-jurisdictional policies or agreements, and any other local, state or federal laws.

**16.10.230 City Council Action.** The City Council shall consider the proposed Comprehensive Plan Amendments and the Planning Commission's recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 16.10.220, as applicable, in order to make a final decision.

- If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

- If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

**16.10.240 Final Decision, Transmittal to State and Appeals.**

A. The Council's final action on the docket must be taken by the second regular Council meeting in December of each year. If the City Council decides not to adopt the proposed Comprehensive Plan Amendments, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed development regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.

B. All appeals to the adoption of an amendment(s) to the City's Comprehensive Plan or development regulations shall be filed with the Growth Management Hearings Board in accordance with the provisions of RCW 36.70A.290 and Chapter 36.70A RCW.

**16.10.250 Planning Commission Periodic Assessment – Recommendations on Amendments.**

A. Timelines. The Planning Commission shall review, and if necessary, recommend revisions to the Comprehensive Plan during a periodic assessment performed in accordance with RCW 36.70A.130. The Planning Commission shall complete its assessment of the Comprehensive Plan by November 1st of the year prior to the assessment. Any amendments recommended by a majority vote of the Planning Commission shall be forwarded to the Planning Director by March 1st of the year in which the periodic assessment is conducted. The Planning Director shall place all such recommended amendments on the preliminary docket to be

considered during the final docket selection process set forth in Sections 16.10.140 through .170 of this chapter.

B. Criteria Governing Planning Commission Assessment. The Planning Commission's periodic assessment and recommendation shall be based upon, but shall not be limited to, an inquiry into the following growth management indicators:

1. Whether growth and development as envisioned in the Comprehensive Plan is occurring faster or slower than anticipated, or is failing to materialize;
2. Whether the capacity of the City to provide adequate services has diminished or increased;
3. Whether sufficient urban land is designated and zoned to meet projected demand and need;
4. Whether any of the assumptions upon which the plan is based are no longer found to be valid;
5. Whether changes in county-wide attitudes necessitate amendments to the goals of the plan and the basic values embodied within the Comprehensive Plan;
6. Whether changes in circumstances dictate a need for amendments; and
7. Whether inconsistencies exist between the Comprehensive Plan and the GMA or the Comprehensive Plan and any County-wide Planning Policies for the City.

Section 6. The City hereby adopts Exhibit A, attached hereto as the "Public Participation Program" for the adoption of the Comprehensive Plan, and amendments to the Comprehensive Plan and Development Regulations under chapter 16.10 of the Black Diamond Municipal Code.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 10. Effective Date. This ordinance shall be effective five days after publication of an approved summary, which shall consist of the title.

PASSED by the Council and approved by the Mayor of the City of Black Diamond, this 18<sup>th</sup> day of December, 2014.

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MAYOR CAROL BENSON

ATTEST/AUTHENTICATED:

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Brenda Martinez, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

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Carol A. Morris, City Attorney

PUBLISHED:  
EFFECTIVE DATE:  
POSTED DATE:

## APPENDIX A

City of Black Diamond  
GROWTH MANAGEMENT ACT (GMA)  
PUBLIC PARTICIPATION PROGRAM  
HANDBOOK

## Introduction

Citizen participation is an important element of the Growth Management Act (GMA). Public participation is one of the Planning Goals outlined in RCW 36.70A and that goal states that jurisdictions shall "...encourage the involvement of citizens in the planning process." The comprehensive plan development and amendment process, as well as the development and amendment of implementation regulations should be a "bottom up" effort, involving early and continuous public participation [RCW 36.70A.140 and WAC 365-195-600]. The City's program has citizen involvement meeting the legal public notification requirements found in chapter 35A.63 RCW – Planning and Zoning in Code Cities, chapter 36.70A - Growth Management Act, chapter 43.21C RCW -- State Environmental Policy Act, and supplements chapter 42.30 RCW -- the Open Public Meetings Act, and chapter 42.56 RCW the Public Records Act. The City's methods and basic framework for achieving an interactive dialogue between local decision makers, City staff, and the public will be formed through this handbook and will apply throughout the local planning process leading to adoption of the comprehensive plan, development regulations to implement the plan, and legislative amendments to both.

The City's Community Development Department will oversee the public involvement in the local GMA planning process, but it is the City Council that decides on the direction and content of policy documents or regulations that they find to be in the community's best interest. The text that follows is intended to guide and form the basis for public participation programs related to GMA and the City's local planning process. The City intends to comply with these guidelines as appropriate to a situation. However, it should be noted that legitimate deviations from the guidelines may be warranted, given specific circumstances. The GMA, specifically RCW 36.70A.140, states that "... errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed."

You will find under the following outline numbers:

1. Communication and Information
2. Availability of Proposals and Alternatives
3. Public Meetings, Workshops & Hearings
4. Opportunity for Open Discussion
5. Opportunity for Written Comments
6. Consideration of and Response to Public Comment

# 1. Communication and Information

**The City will develop**, implement, and maintain communication programs and information services for the purpose of involving the broadest cross-section of the community in the planning process.

To ensure the overall success of the GMA planning process, there are several things that must occur.

- a. First, the public should understand the basic concepts of GMA, the local planning process, and how their own participation can affect local plans and regulations.
- b. Secondly, the public needs to know how and when to get involved.
- c. And finally, they need to understand how their input is used.

**The City will inform** the public through various techniques including, but not limited to, the following:

- **Produce** and make available through the City's website, at City Hall, and at public workshops and hearings, this Public Participation Program Handbook, and Ordinance 14-XXX (on the subject of comprehensive plan and legislative development regulation adoption/amendment), notices to public meetings and public hearings regarding the comprehensive plan development and amendment process, application forms for amendments to the comprehensive plan and development regulations, etc.. Notice procedures should be reasonably calculated to provide notice to property owners and other affected and interested individuals, government agencies, businesses and organizations.
- **Design**, display, and distribute other printed and visual material as needed to inform the public about the local planning process and engage them in relevant discussion;

**Special workshops and hearings** - provide public legal notices for upcoming special workshops and hearings in our official City newspaper, and through the City's website site, at least **1 week prior** to the meeting/hearing date. Notices should state the availability and location of documents under consideration.

- **Regular Meetings** - post agendas for regular meetings on the City's website at least **5 working days prior** to the meeting;
- **Special meetings** - post agendas for special meetings on the City's website, at the public library, at City Hall, and at the Community Center, as required by RCW 42.30.080 (at least **48 hours prior** to the time of the meeting);
- **Interested Parties** - compile, on an ongoing basis, a list of parties interested in GMA and local planning issues. Names should come from meeting and hearing sign-in sheets, written correspondence, and known community groups, as well as specific requests to be included. The list should be used for mailing of public notices as appropriate, or e-mails to those who have signed up for e-mail notification.

## 2. Availability of Proposals and Alternatives

**The City will maintain documents so that they are readily available** to distribute in a timely fashion to all who want to review them. Documents that contain or describe proposed plans, policies, maps, regulations, or the amendment of those, as well as supporting documents such as reports, analyses, recommendations, or environmental reviews should be easily accessible. Documents must be available for review in advance of opportunities for public discussion or testimony.

Proposals or alternatives should be available at least 5 days prior to a public hearing or a public workshop or meeting scheduled for discussion or a decision.

- **Through** the City's website or by e-mail upon request;
- **Hard** copies will be available for review or reproduction at the City Hall or, as appropriate, through other agencies;
- **Hearing** and workshop notices should state the availability and location of documents describing proposals and alternatives or other supporting documents under consideration.

In addition, the City may provide additional notice as follows:

- **Posting** the property for site-specific proposals;
- **Notifying** public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- **Placing** notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- **Publishing** notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

### 3. Public Meetings, Workshops, and Hearings

The City will provide public notice of public workshops and hearings to ensure that the community is made aware of the opportunities to become involved in the planning process. At a minimum, the requirements of chapter 35A.63 RCW, chapter 36.70A RCW, chapter 43.21C RCW and Ordinance \_\_\_\_\_ (pertaining to public hearings and notification), will always be met. However, the City may go beyond the legal minimums to ensure the public is aware of meetings or hearings and of their opportunity to be involved in local planning efforts.

- a. **Public meetings, workshops, open houses, and design forums** are opportunities for open discussion between the public, staff, and decision-makers that do not normally involve public testimony.
  - As appropriate, given the specific proposal, public workshops should be hosted prior to the public hearing(s) as a means to involve and educate the public and solicit their opinions, reactions, or suggestions. The number of workshops should be based upon the specific circumstances of the case;
- b. **Public hearings** are more formalized, legal proceedings where public testimony is presented to a decision-maker for consideration. The result of a public hearing generally consists of an official recommendation in the case of the Planning Commission or a legislative decision by the City Council.
  - At least one public hearing will be conducted prior to making either a recommendation or an official decision on a comprehensive plan, a development regulation implementing the plan, or an amendment to either;
- c. The public shall also have the opportunity to attend **regular or special meetings** to observe and aid in discussion topics.
- d. **Working subgroup meetings** may deviate from the above techniques due to the unique circumstances associated with their function. These include the rapid, high volume, recurring meetings of technical committees, subcommittees, or work groups which focus their efforts on specific issues or limited supporting tasks (as opposed to meetings of a quorum of the Planning Commission or City Council in which they consider complete draft plans, regulations, or amendment proposals meant to result in a formal recommendation of official decision.

#### 4. Opportunity for Open Discussion

The City will ensure that public meetings allow for an open discussion of the relevant issues and that hearings allow for appropriate public testimony. When public meetings, workshops, or hearings are conducted, The City will ensure that those who choose to participate in the planning process have the opportunity to actually take part and have their opinions heard. To ensure participation opportunities, the following actions will be implemented:

- **Establish** an agenda that clearly defines the purpose of the meeting or hearing, the items to be considered, and actions that may be taken. If available early, the agenda should be included or summarized in the notice(s);
- **The scheduled** date, time, and place should be convenient so as to encourage the greatest number of people to attend;
- **A clearly** identifiable facilitator or chair will conduct the meeting or hearing in an orderly fashion to ensure that all attendees have an opportunity to discuss issues, offer comments, or provide testimony;
- **The facilitator** or chair should provide introductory remarks outlining the purpose of the meeting or hearing and describing how the attendees can best participate and how their input may be used;
- **As appropriate**, City staff may provide a brief overview of any documents or proposals to be considered;
- **All persons** desiring to participate should be allowed to do so. However, specific factors, such as the purpose of the meeting, size of attendance, time factors, or other opportunities to participate, may suggest some appropriate constraints to be applied. Rules of order for the meeting or hearing should be set forth clearly by the chair or facilitator;
- **All attendees** will be encouraged to identify themselves on sign-in sheets;
- **All meetings** and hearings should be tape recorded;
- **Written** findings, decision, and minutes should be prepared and available as soon as possible following a hearing;
- **Special** arrangements for meetings or hearings will be made under the provisions of the Americans with Disabilities Act (ADA) with advance notice;
- **If the City Council** chooses to consider a change to an amendment to the comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the City's procedures, an opportunity for public review and comment on the proposed change shall be provided before the City Council votes on the proposed change (all as required by RCW 36.70A.035(2)).
- **As set forth in RCW 36.70A.035(2)(b)**, an additional opportunity for public

review and comment is not required if:

- An environmental impact statement has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
- The proposed change is within the scope of the alternatives available for public comment;
- The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
- The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
- The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

## 5. Opportunity for Written Comments

The City will encourage submission of written comments or written testimony throughout the planning process. In many instances, detailed, technical, or personal comments can be best expressed and understood in written format. The following steps should be taken to encourage written comments:

- **As appropriate**, notices for meetings, workshops, and hearings should include the name and address of the person(s) to whom written comments should be sent, along with the deadline for submitting comments;
- **Persons** speaking or testifying should be encouraged to concisely express their comments verbally and provide specific details in written format;
- **The deadline** for submitting written comments, if allowed subsequent to a meeting or hearing, should be clearly announced by the facilitator or chair;
- **Comment sheets** for written public input should be available at all workshops with the deadline for submitting the completed sheets to City Hall noted;
- **Innovative** techniques, as appropriate to a specific planning task, should be developed and implemented to solicit and document the public's concerns, suggestions, or visions for the community. Techniques may include, but are not limited to, surveys, interactive displays or the innovative use of electronic communication technologies.

## 6. Consideration of and Response to Public Comments

The City will consider relevant public comments and public testimony in the decision-making process. Various methods for informing and involving the public, providing public notice of proposals, and soliciting public opinion or comments have been established above. Many of those represent the initial steps for bringing public comments into the decision-making process. Other guidelines set the stage for decision-makers to consider those comments. (For example, tape recording meetings or hearings and soliciting written comments allow decision-makers the opportunity to review and consider relevant information in detail before a decision is actually made.)

Additional steps will be taken so that comments and recommendations from the public are reviewed by the decision-makers for relevancy. Those would include the following:

- **Time** should be reserved subsequent to the close of a hearing or comment deadline and prior to an actual decision so that the decision maker(s) can adequately review all relevant material or comments. Reconvening a hearing for the purpose of addressing comments is an option that the decision maker(s) may use on a case-by-case basis;
- **Substantive comments** pertaining to studies, analyses, or reports, along with necessary responses, should be included in the published document itself (such as occurs in the SEPA process of developing a Draft Environmental Impact Statement (EIS) and then a Final EIS with comments and responses);
- **The record** (such as tape recordings, written comments or testimony, documents, summaries, etc.) will be compiled and maintained by the City. That record will be made available to the decision maker(s) for their consideration and review prior to a decision. Relevant comments or testimony should be addressed through the findings-of-fact portion of the decision maker's written decision or recommendation.

**Chapter 16.10 AMENDMENTS TO THE  
COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS**

**GENERAL PROVISIONS**

**Sections:**

16.10.005 Purpose and intent.

16.10.010 Words and phrases defined.

**16.10.005 Purpose and intent.**

A.

The comprehensive plan establishes the principles, goals, objectives and policies guiding future development of the city of Black Diamond in compliance with Chapter 36.70A RCW, the Washington State Growth Management Act. The plan serves as the basis of zoning, subdivision and other regulations controlling the use of private and public lands; as a guide for regulations which protect environmentally sensitive areas; as a guide for capital facilities programs, capital budgeting decisions, and the provision of adequate public facilities; as the framework for striving to meet the housing needs of the community; and for the design of transportation systems.

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B.

The intent of this title is to provide procedures and criteria for amending the comprehensive plan and to encourage early and continuous opportunities for public participation in the amendment process and other city-initiated planning programs which may be carried out under the overall framework of the plan.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.10.010 Purpose and Types of Amendments ~~Words and phrases defined.~~**

A. Purpose. The purpose of this chapter is to establish procedures for legislative amendment of the City's Comprehensive Plan map/text and the Development Regulations. In addition, this chapter will describe the City's Public Participation process, which is intended to solicit comments and suggested amendments to the City's Comprehensive Plan and Development Regulations for consideration. The Public Participation process described herein is supplemented by a booklet that provides additional detail.

B. Comprehensive Land Use Plan and Development Regulations. The Comprehensive Land Use Plan is defined as the generalized, coordinated land use policy statement of the City, and the accompanying map, adopted under the Growth Management Act (chapter 36.70A RCW). The Development Regulations are the controls placed on development or land use activities by the City, including, but not limited to, the City's codes on zoning.

critical areas, official controls, planned unit developments, subdivisions, binding site plans and the Shoreline Master Program.

C. Types of Amendments. The applications that will be processed under this Chapter as legislative amendments are Comprehensive Plan Amendments to the Comprehensive Plan Map or Policies and Development Regulation Amendments (to the text of the Development Regulations) which do not implement the existing Comprehensive Plan.

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A.

"Amendment" means any change, revision, addition or group of changes, revisions, or additions to the text and/or maps of the adopted comprehensive plan considered by the planning commission and city council no more frequently than once every calendar year, or whenever an emergency exists, as specified in Chapter 36.70A.130 RCW and Section 16.30.110 of this code.

B.

"City-initiated planning program" means a planning program begun by resolution of the city council or planning commission addressing a geographic sub-area of the city's urban growth area (such as a neighborhood or urban design plan). These programs are intended to include continuous opportunities for public participation in the planning process and proposals made as part of these programs may be considered for adoption as part of the comprehensive plan at any time during the year.

C.

"Director" means the community development director or his/her designee.

D.

"Docket" means a list of suggested amendments to the comprehensive plan maintained by the director.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.10.020 Administration of Legislative Amendments to Development Regulations.**

The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed legislative amendments to the Development Regulations, and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission's recommendation during a public meeting or a public hearing and shall make a final decision.

**16.10.030 Procedure for Amendments to Development Regulations.** The following steps shall be followed in the processing of applications for Amendments to Development Regulations.

- A. Section 16.10.040(C): Director's Determination that the Application is Complete;
- B. Section 16.10.060: SEPA Compliance and Transmittal to State;
- C. Section 16.10.070: Notice of Public Hearing;

- D. Section 16.10.080: Public Hearing before the Planning Commission;
- F. Section 16.10.090: City Council consideration of application;
- G. Section 16.10.100: Final Decision, transmittal to state;
- H. Section 16.10.110: Appeal to Growth Management Hearings Board (if any).

**16.10.040 Submission of Applications for Amendments to Development Regulations  
(Who May Submit and When).**

A. Who May Submit Applications. Any interested person, including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may submit an application for an amendment of a Development Regulation.

B. When Applications May Be Submitted. The text of the City's adopted Development Regulations may be amended at any time, provided that the amendment is consistent with the City's Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary Plan amendments using the process and timelines for Comprehensive Plan Amendments in Sections 16.10.120 through .240 of this chapter. Applications that do not include the information required in Section 16.10.050 shall not be processed.

C. Director's Determination that the Application is Complete. The Director shall review the application(s) after submission to determine whether the application(s) include the information required by Section 16.10.050. Applicants shall be notified if additional information is required, but this procedure is not subject to the determination of completeness in RCW 36.70B.070 for project permits.

**16.10.050 Requirements for a Complete Application.** The following materials shall be submitted to the City for a complete application for a Development Regulation Amendment (or Comprehensive Plan Amendment, if applicable):

- A. An application form provided by the City;
- B. Name, address, phone number and e-mail of the applicant and if the applicant is not the property owner, proof of the property owner's consent to the submission of the application;
- C. Name, address, phone number and e-mail of the owner of the property identified in the application (if applicable);
- D. A legal description of the property, if applicable;
- E. A description of the proposed Amendment and any associated development proposals, if applicable. Formal site-specific or project-related amendments shall include plans, information and/or studies that accurately depict existing and proposed uses(s) and improvements. Proposed site-specific or project related Amendments that do not specify propose use(s) and potential impacts will be assumed to have maximum impact to the environment, public facilities and services;
- F. Proposed amendatory language, preferably shown in "bill" format (i.e., new language underlined; language proposed for deletion in strikeouts);
- G. An explanation of the rationale for the proposed Amendment;

H. An explanation of how the proposed Amendment and associated development proposal(s) if any, conform to, conflict with, or relate to the criteria set forth in Section 16.10.220;

I. A completed SEPA checklist including the supplement sheet for nonproject actions (if applicable);

J. Application fee as set forth in the City's resolution adopted for this purpose; and

K. Any additional information reasonably deemed necessary by the Planning Director to evaluate the proposed amendment.

**16.10.060 SEPA Compliance and Transmittal to State.** If an application for an Amendment to the Development Regulations is submitted outside of the annual Comprehensive Plan Amendment process, SEPA shall be performed on the application as set forth in chapter 19.04 (City's SEPA ordinance). If applicable, the City shall notify the State Department of Commerce of its intent to adopt the proposed amendment(s) to the Development Regulations at least sixty (60) days prior to final adoption.

**16.10.070 Public Notice.**

A. Notice of any public hearing on an application for an Amendment to a Development Regulation submitted outside of the annual Comprehensive Plan Amendment process set forth in this chapter, shall be given by one publication in the official newspaper of the City at least 10 days prior to the date of the hearing and by posting a copy of the notice of public hearing in City Hall and on the City's website. Additional notice may be required by state or local law (e.g., statutory notice requirements for amendments to the Shoreline Master Program), or additional notice may be provided as deemed appropriate by the Director.

B. The public notice shall include the following:

1. The purpose(s) of the Amendment;
2. The deadline for submitting comments on the Amendment;
3. A tentative hearing schedule; continued hearings may be held by the

Planning Commission but no additional notices need be published.

**16.10.080 Planning Commission Public Hearing.** The Planning Commission shall hold a public hearing on an application for an Amendment to a Development Regulation and shall make a recommendation to the City Council, using the criteria set forth in Section 16.10.220, as applicable. There is no limit on the number of public hearings or continuation of public hearings that the Commission (or City Council) may hold on a proposed Amendment.

**16.10.090 City Council Action.** The City Council shall consider the proposed Amendment to the Development Regulations and the Planning Commission's recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 2.1.220, as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

**16.10.100 Final Decision, Transmittal to State and Appeals.** If the City Council decides not to adopt the proposed Amendment to the Development Regulations, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed Amendment to the Development Regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.

**16.10.110 Appeal of Legislative Amendments to Development Regulations.** Appeals of the City's final decision may be filed with the Growth Management Hearings Board, pursuant to RCW 36.70A.290.

**16.10.120 Administration of Annual Comprehensive Plan Amendments.**

A. Legislative Amendments to the Comprehensive Plan. The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed Comprehensive Plan amendment(s), and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission's recommendation during a public meeting or a public hearing and make a final decision.

B. Development Agreement. A Legislative Amendment to the Comprehensive Plan that is site-specific may be approved subject to the execution, delivery and recording of a Development Agreement between the City Council and the property owner of the subject property (or the legal owner of a beneficial interest in the subject property). The Development Agreement may impose conditions to address the criteria set forth in Section 16.10.220, and approval of the Comprehensive Plan Amendment shall be conditioned upon performance or compliance with the terms and conditions of the Development Agreement. The City may revoke (or take other action allowed by law) a Comprehensive Plan Amendment executed with a Development Agreement for failure to comply with the Development Agreement. An applicant proposing a Comprehensive Plan Amendment with a Development Agreement shall submit the proposed Development Agreement with the application materials described in Section 16.10.050. The City will evaluate the proposed Development Agreement together with the proposed Comprehensive Plan Amendment (see Chapter 18.66 on Development Agreements), to determine whether the Amendment should be approved.

**16.10.130 Submission of Applications (Who May Submit and When).**

A. Who May Submit Applications for Amendments Related to a Site-Specific Development Proposal. Proponents of land development projects and/or property owner(s) or their authorized representative(s), may file an application for a proposed Amendment to the Comprehensive Plan relating to a site-specific proposal. The complete application shall consist of the materials described in Section 16.10.050. The application filing fee as set forth in the City's fee resolution shall accompany the application, which shall also require the applicant to pay for the applicant's portion of the SEPA review attributable to the application.

B. Who May Suggest Amendments. Any interested person, including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may suggest an Amendment to the Comprehensive Plan. Generally, suggested Amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the Comprehensive Plan rather than amendments designed to address site-specific issues of limited applicability. If an application is not submitted for the suggested Amendment by the interested person, the Planning Director shall include the suggested Amendment on a Docket that is maintained each year for this purpose. The process described in Sections 16.10.160 through .170 of this chapter shall resolve the question whether such suggested Amendments will be considered during the annual review process.

C. Amendments Considered Once a Year. Applications for Amendments to the City's Comprehensive Plan may not be considered more frequently than once every year, except: (1) under the circumstances described in RCW 36.70A.130(2)(i) through (v); (2) when needed to resolve an emergency condition or situation that involves public health, safety or welfare and when adherence to the Amendment process set forth in this chapter would be detrimental to the public health, safety and welfare. Situations involving official legal or administrative action affecting the City will be reviewed by the City Council with advice from the City Attorney to determine whether an emergency exists warranting an emergency Comprehensive Plan Amendment. Except as otherwise provided in RCW 36.70A.130(2)(a), all Comprehensive Plan Amendments shall be considered concurrently so that the cumulative effect of the various proposals may be ascertained.

D. Deadline for Application Submittal. All applications for Comprehensive Plan Amendments shall be submitted to the Planning Director by March 1<sup>st</sup> of the current calendar year (or be included in the Director's docket of suggested amendments by this date) in order to be considered during that year's amendment process; except that City-sponsored proposals to amend the Capital Facilities Element of the Comprehensive Plan may be accepted later than other proposed amendments because of their relationship to the City's annual budget process. Applications that do not include the information required under subsection 16.10.050 for a complete application, or which are not received by the deadline set forth in this subsection, shall not be processed.

#### **16.10.140 Preliminary Docket.**

A. Contents. A preliminary docket shall be maintained by the Planning Director, which shall consist of the following:

1. All applications submitted before the March 1<sup>st</sup> deadline to amend the Comprehensive Plan;

2. All amendments suggested during the year by citizens, the Planning Commission, City Council, staff, departments or other agencies.

B. Planning Director Responsibilities. After compiling the preliminary docket, the Planning Director shall review the suggested amendments and prepare a report concerning which suggested amendments that the Planning Director believes should be placed on the final docket for consideration during the annual amendment process. In addition to addressing the need, urgency and appropriateness of each suggested amendment, the staff report shall include, but not be limited to, a consideration of the following:

1. The availability of sufficient planning staff to substantively review the suggested amendments and manage the public review process with available staff; and

2. Anticipated planning costs and budget for processing the suggested amendments.

**16.10.150 Optional City Council/Planning Commission Workshop on Preliminary Docket.** The City Council and Planning Commission may, but are not required to, hold a noticed joint workshop meeting to gather information regarding the items on the preliminary docket and the Planning Director's report and recommendation. If held, notice of the joint workshop meeting shall be given by publication in the City's official newspaper at least one time, ten (10) days prior to the date of the meeting and by posting a copy of the meeting notice at City Hall and the City's website, which shall include a statement of the purpose of the joint workshop.

**16.10.160 Planning Commission Hearing on Preliminary Docket.** The Planning Commission shall hold a noticed public hearing to accept public comment regarding the suggested amendments on the preliminary docket. Following the hearing, the Planning Commission shall prepare a report and recommendation identifying those suggested amendments that it is recommending for consideration by the City Council during the annual amendment process. The Planning Commission's recommendation shall be based upon the perceived need, urgency and appropriateness of each suggested amendment. The Planning Commission's report and recommendation shall also include those proposed amendments resulting from its periodic assessment set forth in Section 16.10.250, as applicable. Notice of the Planning Commission's hearing shall be given as set forth in Section 16.10.070.

**16.10.170 City Council Decision – Adoption of Final Docket.** The City Council shall review and consider the Planning Commission's report and recommended final docket at a regularly scheduled Council meeting. The City Council may adopt the Planning Commission's recommended final docket without a public hearing; however, in the event that a majority of the City Council decides to add or subtract suggested amendments, it shall first hold a public hearing, noticed as set forth in Section 16.10.070.

**16.10.180 Final Docket -- Contents.** The final docket adopted by the City Council shall include the following:

1. All applications for Comprehensive Plan Amendments for site-specific amendments timely submitted under Section 16.10.130; and
2. Any proposals for suggested amendments which the City Council elects to consider during the annual amendment process.

**16.10.190 Effect of Final Docket.** The City Council's decision to adopt the final docket does not constitute a decision or recommendation that the substance of any site-specific amendment or suggested amendment be adopted. No additional amendment proposals shall be considered by the City after adoption of the final docket for that year, except for those identified in RCW 36.70A.130(2)(i) through (v), and City-sponsored proposals to amend the capital facilities element of the Comprehensive Plan as set forth in RCW 36.70A.130(2)(a)(iv).

**16.10.200 SEPA on Final Docket.** The final docket as adopted by the City Council shall first be reviewed and assessed by the Planning Director, who shall prepare a staff report and recommendation on each proposed amendment. The Planning Director shall also be responsible for conducting SEPA review of all items on the final docket, as required by chapter 19.04 BDMC. As appropriate, the Planning Director shall solicit comments regarding the proposed amendments from the public and/or government agencies. The Planning Director shall also be responsible for providing notice and opportunity for public comment as deemed appropriate, given the nature of the proposed amendments and consistent with RCW 36.70A.140. and SEPA (chapter 43.21C RCW and chapter 197-11 WAC). Issuance of the SEPA threshold decision on the proposed Comprehensive Plan Amendments shall be coordinated such that if an appeal of the SEPA threshold decision is filed, the appeal can be considered under the procedure in chapter 19.04 BDMC.

**16.10.210 Planning Commission Public Hearing on Final Docket.**

A. All proposed amendments on the final docket shall be reviewed and assessed by the Planning Commission, which shall make a recommendation to the City Council after holding at least one public hearing.

B. After the public hearing(s), the Planning Commission shall develop findings and conclusions to support its recommendation to the City Council that the proposed amendment(s) be denied, approved, or approved with conditions or modifications.

**16.10.220 Evaluation Criteria for Proposed Amendments.** The Planning Commission shall review the proposed Amendments to the Comprehensive Plan and Development Regulations under the following criteria to develop findings and conclusions to support its recommendation:

A. All Amendments. All of the Comprehensive Plan Amendments shall be reviewed under the following criteria:

1. Whether the proposed amendment(s) conform to the Growth Management Act (chapter 36.70A RCW);

2. Whether the proposed amendment(s) are consistent with and implement the City's Comprehensive Plan, including the goals, policies and implementation strategies of the various elements of the Plan;

3. Whether circumstances related to the proposed amendment(s) and/or the area in which it is located have substantially changed since the adoption of the City's Comprehensive Plan;

4. Whether the assumptions upon which the City's Comprehensive Plan is based are no longer valid, or whether new information is available which was not considered during the adoption process or any annual amendments of the City's Comprehensive Plan; and

5. Whether the proposed amendment(s) reflects current, widely held values of the residents of the City.

B. Amendments for Site-Specific Proposals. In addition to the above, any proposal for a site-specific development or amendment shall be reviewed under the following criteria:

1. Whether the proposed site-specific amendment(s) meets concurrency requirements for transportation and does not adversely affect adopted level of service standards for other public facilities and services (e.g., police, fire and emergency medical services, parks, fire flow and general governmental services);

2. Any proposed site-specific amendment(s) will not result in probable significant adverse impacts to the City's transportation network, capital facilities, utilities, parks and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities;

3. In the case of a site-specific amendment(s) to the Comprehensive Plan's Land Use Map, that the subject parcels are physically suitable for the requested land use designation and the anticipated land use development, including, but not limited to, the following: (i) access; (ii) provision of utilities; and (iii) compatibility with existing and planned surrounding land uses;

4. The proposed site-specific amendment(s) will not create pressure to change the land use designation of other properties, unless the change of land use designation for other properties is in the long-term best interests of the City as a whole;

5. The proposed site specific amendment(s) does not materially affect the land use and population growth projections that are the bases of the Comprehensive Plan;

6. If within an incorporated urban growth area (UGA), the proposed site-specific amendment(s) does not materially affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA;

7. The proposed amendment(s) is consistent with any applicable County-Wide Policies for the City and any other applicable inter-jurisdictional policies or agreements, and any other local, state or federal laws.

**16.10.230 City Council Action.** The City Council shall consider the proposed Comprehensive Plan Amendments and the Planning Commission's recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 16.10.220, as applicable, in order to make a final decision.

- If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

- If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

**16.10.240 Final Decision, Transmittal to State and Appeals.**

A. The Council's final action on the docket must be taken by the second regular Council meeting in December of each year. If the City Council decides not to adopt the proposed Comprehensive Plan Amendments, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed development regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.

B. All appeals to the adoption of an amendment(s) to the City's Comprehensive Plan or development regulations shall be filed with the Growth Management Hearings Board in accordance with the provisions of RCW 36.70A.290 and Chapter 36.70A RCW.

**16.10.250 Planning Commission Periodic Assessment – Recommendations on Amendments.**

A. Timelines. The Planning Commission shall review, and if necessary, recommend revisions to the Comprehensive Plan during a periodic assessment performed in accordance with RCW 36.70A.130. The Planning Commission shall complete its assessment of the Comprehensive Plan by November 1st of the year prior to the assessment. Any amendments recommended by a majority vote of the Planning Commission shall be forwarded to the Planning Director by March 1st of the year in which the periodic assessment is conducted. The Planning Director shall place all such recommended amendments on the preliminary docket to be considered during the final docket selection process set forth in Sections 16.10.140 through .170 of this chapter.

B. Criteria Governing Planning Commission Assessment. The Planning Commission's periodic assessment and recommendation shall be based upon, but shall not be limited to, an inquiry into the following growth management indicators:

1. Whether growth and development as envisioned in the Comprehensive Plan is occurring faster or slower than anticipated, or is failing to materialize;
2. Whether the capacity of the City to provide adequate services has diminished or increased;
3. Whether sufficient urban land is designated and zoned to meet projected demand and need;

4. Whether any of the assumptions upon which the plan is based are no longer found to be valid;

5. Whether changes in county-wide attitudes necessitate amendments to the goals of the plan and the basic values embodied within the Comprehensive Plan;

6. Whether changes in circumstances dictate a need for amendments; and

7. Whether inconsistencies exist between the Comprehensive Plan and the GMA or the Comprehensive Plan and any County-wide Planning Policies for the City.

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**Chapter 16.20 CONFORMANCE**

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**Sections:**

16.20.010 Conformance and consistency.

**16.20.010 Conformance and consistency.**

The zoning code and other development regulations contained and/or referenced within the municipal code shall be interpreted and implemented in a manner consistent with the intent of the comprehensive plan. Capital budget decisions shall be consistent with the comprehensive plan.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

## Chapter 16.30 ADOPTION AND AMENDMENT PROCEDURES

### Sections:

16.30.010 Applicability.

16.30.020 Public hearing required by the planning commission—Notice required.

16.30.030 Adoption required by city council.

16.30.040 Adoption of comprehensive plan.

16.30.050 Adoption and amendment of future land use map.

16.30.060 When amendments may be adopted.

16.30.070 Proposals for amendments.

16.30.080 Decision criteria for privately initiated plan amendment proposals.

16.30.090 Periodic assessment of comprehensive plan amendment needs.

16.30.100 Docketing.

16.30.110 Amendments considered under emergency situation.

16.30.120 Provisions for amendment transmittal and reporting to state.

16.30.130 Appeals to the adoption or amendment of a comprehensive plan.

### **16.30.010 Applicability.**

This section shall apply to the adoption of amendments or additional elements to the comprehensive plan.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

### **16.30.020 Public hearing required by the planning commission—Notice required.**

A.

When proposed adoption of the comprehensive plan, adoption of successive parts thereof, or an amendment to the comprehensive plan is under consideration, the planning commission shall hold at least one public hearing thereon, and notice of such hearing shall be given prior to the planning commission making a recommendation for city council adoption. The notice shall be given pursuant to Section 18.08.125 of this code.

B.

As an alternative to these noticing procedures if the number of owners to whom notice would be sent is greater than two hundred for any individual proposal, the city may choose to provide notice at least fifteen calendar days prior to the hearing by placing a display advertisement that fills at least one-fourth of a page in a newspaper

of general circulation in the city and in the newspaper that has been designated as the official newspaper of the city.

C.

For all privately initiated amendment requests, it shall be the responsibility of the applicant to bear the full cost of providing required notice.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

#### **16.30.030 Adoption required by city council.**

The comprehensive plan or an amendment to the comprehensive plan requires adoption by the city council by ordinance. The city council shall not adopt a comprehensive plan amendment or addition without first conducting a public hearing and considering a report by the planning commission. In addition, amendments to the future land use plan map will generally require a change in zoning of specific properties; said changes shall be considered concurrently with a plan amendment request by the planning commission and city council and shall not require the payment of additional fees.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

#### **16.30.040 Adoption of comprehensive plan.**

There is adopted by reference a comprehensive plan, which shall be on file with the community development department and city clerk, which shall be known as the City of Black Diamond comprehensive plan. This comprehensive plan may be amplified, augmented and amended pursuant to the provisions in this title, but as a minimum, shall consist of:

1.

The City of Black Diamond comprehensive plan (2009), which includes the following:

- a. Overview chapter;
- b. Urban growth area chapter;
- c. Population and employment character chapter;
- d. Natural environment element;
- e. Land-use element;
- f.

- Housing element;
- g. Transportation element;
- h. Capital facilities plan element;
- 2. Comprehensive parks, open space and recreation plan (2008);
- 3. City of Black Diamond comprehensive sewer system plan;
- 4. City of Black Diamond water system comprehensive plan; and
- 5. City of Black Diamond comprehensive storm drainage plan.
- 6. The Enumclaw school district capital facilities plan, which is adopted as a sub-element of the capital facilities plan element of the comprehensive plan.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.30.050 Adoption and amendment of future land use map.**

A.

The city shall create and maintain a map known, cited, and referenced as the City of Black Diamond future land use map. This map shall depict the location and boundaries of various land use classifications, references and other land use information and shall be an official document adopted by reference as part of the comprehensive plan.

B.

A true and correct copy of the future land use map shall be kept in the office of the community development department, and shall be revised to reflect all comprehensive plan land use map amendments within thirty days of enactment of said amendments. The future land use map shall contain the date of initial adoption and the date of each subsequent revision.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.30.060 When amendments may be adopted.**

A.

Except for the products of city-initiated planning programs, all amendments to the comprehensive plan shall be considered concurrently in order to assess their

cumulative impact and no more frequently than once each calendar year except in the event of an emergency, as defined in Section 16.30.110. The city council shall consider proposed amendments concurrently and act on them just prior to, or concurrently with, the city's budget, or its modification, in the last quarter of each year.

B.

Additions of new elements as the result of a city-initiated planning program or the adoption or amendment of a shoreline master program under RCW 90.58 may occur at any time during the calendar year, provided the element must be consistent with the general framework and intent of the comprehensive plan.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

#### **16.30.070 Proposals for amendments.**

A.

A proposed amendment to the comprehensive plan may be submitted by any individual, organization, corporation or partnership, general or special purpose government, or entity of any kind; provided, that if the proposal involves specific real property, the property owner must provide written consent to the proposal.

B.

The city council or the planning commission may by resolution initiate a planning program or any type of amendment to the comprehensive plan, regardless of whether site-specific or area-wide in scope.

C.

Except for city-initiated planning programs or individual amendments, all proposed amendments to the comprehensive plan shall be submitted to the planning commission in writing on a form as required by the community development department, together with required filing fees. An environmental checklist shall also be submitted if required. A proposed amendment request shall include the following information:

1.

Name, address and phone number of the applicant and contact person, if any;

2.

If the amendment concerns specific real property, both a general and legal description of the property;

3.

A description of the plan amendment being requested;

4.

Statements addressing the purpose of the amendment and why the amendment is being requested, including addressing the criteria listed in Section 16.30.090.

D.

The community development department shall broadly disseminate information regarding the annual amendment process and identify a general time period when amendments will be solicited; however, a request will be accepted at any time. Those amendment requests received after the established general time period will not be considered in that year's amendment process unless an emergency exists as defined in Section 16.30.110. If an amendment request received after the established general time period is not considered in that year's amendment process, it will be considered in the next year. Proposed plan amendments consisting of changes to the capital facilities plan (CFP) element will generally be accepted later than other proposed amendments because of the CFP's relationship to the city budget or its modification.

E.

The planning commission shall consider an assessment and recommendation on all proposed amendment requests from the community development department and shall make and forward a recommendation on each to the city council.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

#### **16.30.080 Decision criteria for privately-initiated plan amendment proposals.**

A.

In consideration that the comprehensive plan was developed and adopted after significant study and public participation, the principles, goals, objectives and policies contained therein shall be granted substantial weight when considering any proposed amendment. Therefore, the burden of proof for justifying a proposed amendment rests with the applicant, who must demonstrate that the request fully complies with subsections (1) and (2) and/or (3) of this section as follows:

1.

The proposed change will further and be consistent with the goals, objectives and policies of the comprehensive plan;

2.

If the request is to change the land use designation of a specific property on the future land use map, the applicant must demonstrate either of the following:

a.

The existing land use designation was clearly made in error or due to an oversight;

b.

There has been a change in conditions since the plan was adopted/last amended;

3.

Any of the criteria listed in Section 16.30.100.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.30.090 Periodic assessment of comprehensive plan amendment needs.**

A.

The director will monitor the comprehensive plan and regulatory procedures that implement the plan, and may add potential changes to the docket as specified in 16.30.100. This assessment shall be based on, but not limited to:

1.

Whether growth and development are occurring at a faster or slower rate than envisioned in the plan;

2.

Whether the capacity to provide adequate services is diminished or increased;

3.

The availability of land to meet demand;

4.

Assumptions upon which the plan is based are found to be invalid;

5.

The effect of the plan on land values and housing is contrary to the plan goals;

6.

A determination that sufficient change or lack of change in circumstances dictate the need for a recommended amendment; or

7.

A determination that inconsistency may exist between the comprehensive plan and Chapter 36.70A RCW, the Countywide Planning Policies for King County, and Vision 2040: Growth and Transportation Strategy for the Central Puget Sound Region.

B.

A major reassessment of the comprehensive plan shall occur at least every ten years from the date of initial adoption of the plan.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

## **16.30.100 Docketing.**

A.

In accordance with RCW 36.70A.470, suggested changes to the comprehensive plan which are not site-specific may be submitted by any individual, organization or general or special purpose government and shall be coordinated by the director. The director shall create appropriate forms for such submittals that require the submittal to address the criteria outlined in subsection C of this section. The director shall maintain a list of all submittals; this list shall be known as the "docket" and shall be the official method of tracking all known requested changes or additions to the comprehensive plan that are not site-specific. An item may be submitted to the docket at any time during the calendar year. There is no fee associated with submitting an item to the docket.

B.

Annually, the director shall review such suggestions with the planning commission, which may choose to initiate formal consideration as part of the amendment process.

C.

Proposed amendments on the docket may be considered appropriate for action if the following criteria are met:

1.

A proposed comprehensive plan text amendment addresses a matter appropriate for inclusion in the plan;

2.

The proposal demonstrates a strong potential to serve the public interest by implementing specifically identified goals and policies of the plan;

3.

The proposal addresses the interests and changed needs of the entire city as identified in the plan;

4.

The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the mayor;

5.

The proposal can be reasonably reviewed and evaluated, given existing staff and budget resources; and

6.

The proposal has not been voted on by the city council in the last three years. This time limit may be waived if it is demonstrated that a) the proposal addresses an obvious technical error in the existing plan or b) a change in circumstances justifies the need for the proposed amendment.

D.

Any item on the docket that is not determined to be appropriate for action may be proposed pursuant to section 16.30.070, provided it is timely and properly filed.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.30.110 Amendments considered under emergency situation.**

The planning commission and city council may consider amendments to the comprehensive plan at any time during a calendar year as a result of an emergency situation in which property or human safety is in jeopardy, or to resolve an appeal of the comprehensive plan filed with the Central Puget Sound growth management hearings board or superior court or as required to comply with any court order or change in the law.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.30.120 Provisions for amendment transmittal and reporting to state.**

The community development department shall notify and transmit copies of all proposed plan amendments and development regulations to the Washington State Department of Community, Trade and Economic Development and designated state agencies at least sixty days prior to adoption as consistent with Chapter 36.70A RCW, as currently enacted or hereafter amended.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

**16.30.130 Appeals to the adoption or amendment of a comprehensive plan.**

All appeals to the adoption of the comprehensive plan or an amendment thereto shall be filed with and processed by the Central Puget Sound growth management hearings board in accordance with the provisions of Chapter 36.70A RCW, as currently enacted or hereafter amended.

*(Ord. No. 912, § 2 (Exh. A), 6-18-2009)*

# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b> <b>AB14-128</b>  <b>Resolution No. 14-994, authorizing the Mayor to execute the second addendum to the ILA with the City of Auburn for IT Services</b>	<b>Agenda Date: December 18, 2014</b>		<b>AB14-128</b>
	Department/Committee/Individual		
	Mayor Carol Benson		
	City Administrator –		
	City Attorney –Carol Morris		
	City Clerk – Brenda L. Martinez		<b>X</b>
	Finance – May Miller		
	Com Dev/Nat Res– Aaron Nix		
	MDRT/Ec. Dev. – Andy Williamson		
	Police – Jamey Kiblinger		
Court – Stephanie Metcalf			
Public Works. – Seth Boettcher			

**Agenda Placement:**  Mayor  Two Councilmembers  Committee Chair  City Administrator

**Attachments: Resolution No. 14-994; Proposed Second Addendum to ILA; Resolution No. 13-891; Resolution No. 14-913**

### SUMMARY STATEMENT:

#### BACKGROUND

The City of Black Diamond contracted with the City of Auburn for contract information technology services for the Police Department earlier in Budget Year 2013. In early 2014 the City Council expanded information technology services to cover general city-wide IT services, including police IT services based on the current agreement already approved by the City

#### POLICY CONSIDERATION

The attached second addendum to the Interlocal Agreement between the City of Black Diamond and the City of Auburn for IT services extends our agreement for three (3) years, and Exhibit B identifies the CPI increase for 2014-2015 that is built into the contract. The base agreement remains in effect as previously approved, but is amended by this addendum, including Exhibit B as attached to the addendum.

#### FISCAL CONSIDERATION

Monthly base services, including one on-site day per week, will be at the rate of \$3366 per month. Hourly time will be billed beyond this general coverage at the rate of \$110 per hour. Mileage will be billed per IRS rates. The 2015 City of Black Diamond draft budget is scaled to cover both these costs.

#### COMMITTEE REVIEW AND RECOMMENDATION:

The Finance Committee reviewed the second addendum to the ILA with the City of Auburn for IT Services on November 25, 2014, and forwarded the second addendum to the ILA for further consideration by the City Council. The Finance Committee recommends approval as presented, including 'Exhibit B' as attached.

RECOMMENDED ACTION: **MOTION to approve Resolution No. 14-994, authorizing the Mayor to execute the second addendum for city-wide IT services with the City of Auburn as presented.**

**RECORD OF COUNCIL ACTION**

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 1, 2014	Pulled from Agenda	
December 18, 2014		

**RESOLUTION NO. 14-994**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE MAYOR TO EXECUTE THE SECOND  
ADDENDUM TO THE INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF AUBURN AND THE CITY OF  
BLACK DIAMOND FOR IT SERVICES**

**WHEREAS**, on October 3, 2013 the City entered into an Interlocal Agreement with the City of Auburn to provide the police department with IT services; and

**WHEREAS**, in January of 2014 the City Council expanded information services to cover general city-wide IT services, including police IT services based on the current agreement already approved by the City Council; and

**WHEREAS**, it is the desire of the City Council to have the City of Auburn continue providing city-wide information services;

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

**Section 1.** The Mayor is hereby authorized to the second addendum to the Interlocal Agreement between the City of Auburn and the City of Black Diamond for city-wide information services, in the form substantially attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 18TH DAY OF  
DECEMBER, 2014.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

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

SECOND ADDENDUM TO INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF BLACK DIAMOND AND  
THE CITY OF AUBURN RELATING TO  
INFORMATION TECHNOLOGY

THIS SECOND ADDENDUM to the Interlocal Agreement for Information Services Technology (dated September 16, 2013, the First Addendum being executed on December 16, 2013) is entered into this \_\_\_ day of \_\_\_\_\_, by and between the City of Black Diamond (hereinafter referred to as "Black Diamond") and the City of Auburn (hereinafter referred to as "Auburn"), both of which are municipal corporations organized under the laws of the State of Washington, under the Interlocal Cooperation Act, chapter 39.34 RCW.

**RECITALS:**

WHEREAS, the parties have entered into the Interlocal Agreement and the First Addendum described above; and

WHEREAS, the parties wish to make certain minor amendments and to extend the termination date of the Interlocal and First Addendum;

NOW, THEREFORE, in consideration of the covenants and conditions set forth below, the parties agree as follows:

Section 1. Section 7 of the Interlocal Agreement is amended to read as follows:

7. TIME FOR PERFORMANCE AND TERM OF AGREEMENT.

Auburn shall perform the services provided for herein in accordance with the direction and scheduling provided in Exhibit A, unless otherwise agreed to in writing by the parties. The ~~initial~~ term shall be three (3) years from the date of execution of this Addendum ~~twelve (12) months~~ and may be extended thereafter by written agreement by the Parties sixty (60) days prior to term end. It is provided however, that either party may cancel this Agreement upon sixty (60) days written notice to the other party.

Section 2. Section 11 of the Interlocal Agreement is amended to read as follows:

11. ADMINISTRATION OF AGREEMENT.

This Agreement shall be administered by ~~Ron Tiedeman~~, Innovation & Technology Director or designee on behalf of Auburn, and by the City Administrator ~~Mark E. Hoppen~~, City Administrator, or designee on behalf of Black Diamond. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

CITY OF AUBURN  
Innovation & Technology  
Ron Tiedeman  
25 W Main Street  
Auburn, WA 98001-4998  
Phone: 253-288-3160  
E-mail: [rtiedeman@auburnwa.gov](mailto:rtiedeman@auburnwa.gov)

CITY OF BLACK DIAMOND  
City Administration  
~~Mark E. Hoppen~~  
24301 Roberts Drive  
Black Diamond, WA 98010  
(360) 886-5700  
[mhoppen@ciblackdiamond.wa.us](mailto:mhoppen@ciblackdiamond.wa.us)

Section 3. Remaining Terms Unchanged. All remaining terms and conditions of the Interlocal and the Addendum No. 1 to the Interlocal remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written:

CITY OF AUBURN

CITY OF BLACK DIAMOND

By \_\_\_\_\_

By \_\_\_\_\_  
Carol Benson, Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam  
Auburn City Clerk

\_\_\_\_\_  
Brenda L. Martinez,  
Black Diamond City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Daniel B. Heid  
Auburn City Attorney

\_\_\_\_\_  
Carol A. Morris  
Black Diamond City Attorney

**EXHIBIT B – 2014/2015 IT SERVICES EXTENSION  
COST OF SERVICES**

Support Function	Operating Hours	Billing rate	Monthly cost
General Network and desktop maintenance and support including operating system patch management, virus system software management, general troubleshooting and problem resolution that can be via remote access/phone and minimal Black Diamond Auburn office visits where deemed possible allowing equipment drop off and minimal hands on configuration support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$3366.00 / month effective November, 2014 and monthly thereafter	\$3366.00
Network and desktop repair and maintenance that require onsite support.	M - F, 7 a.m. - 5 p.m. excluding holidays	Included. Mileage billed separately and based on IRS standard mileage rates	Per hour as required
All support responses by City of Auburn technical support staff.  <b>Note:</b> COA technical support staff will not respond without authorization from City of Black Diamond Mayor, Police Chief or City Administrator.	Non business hours, afterhours, emergency response	\$110.00 / hour with one hour minimum plus mileage based on IRS standard mileage rate	Per incident as required
Netmotion Client Software	n/a	Evaluation Option	Per Client
Virus Protection Software	n/a	Evaluation Option	Yearly

RESOLUTION NO. 13-891

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE MAYOR TO EXECUTE AN  
INTERLOCAL AGREEMENT WITH THE CITY OF AUBURN  
FOR POLICE IT SERVICES**

**WHEREAS**, the Black Diamond Police Department seeks professional information technology services; and

**WHEREAS**, the City of Auburn utilizes most, if not all, of the same operating systems and has on-site staff who are specifically familiar with their functions, capabilities, and maintenance; and

**WHEREAS**, the City of Auburn has the requisite skills, resources, and experience necessary to provide such services and is willing and agreeable to provide such services;

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

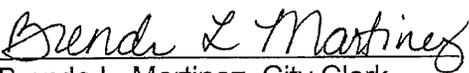
**Section 1.** The Mayor is hereby authorized to execute an Interlocal Agreement between the City of Auburn and the City of Black Diamond for Police Information Services Technology in the form substantially attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3RD DAY OF OCTOBER,  
2013.**

CITY OF BLACK DIAMOND:

  
\_\_\_\_\_  
Rebecca Olness, Mayor

Attest:

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

# EXHIBIT A

## CITY OF AUBURN – CITY OF Black Diamond INTERLOCAL AGREEMENT FOR INFORMATION SERVICES TECHNOLOGY

THIS INTERLOCAL AGREEMENT made and entered into, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the 16<sup>th</sup> day of September, 2013, by and between the CITY OF AUBURN, a municipal corporation of the State of Washington (hereinafter referred to as "Auburn"), and the CITY OF Black Diamond, a municipal corporation of the State of Washington (hereinafter referred to as "Black Diamond"),

WITNESSETH:

WHEREAS, Black Diamond seeks professional information technology ("IT") services; and

WHEREAS, Auburn has the requisite skills, resources and experience necessary to provide such services and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, the parties hereto do hereby agree as follows:

### 1. SCOPE OF SERVICES

Auburn agrees to perform for Black Diamond, in a good and professional manner the tasks specific to support the Black Diamond Police Department ("BDPD") described on Exhibit A which is attached hereto and by this reference made a part of this Agreement. (The tasks described on Exhibit A shall be individually referred to as a "task," and collectively referred to as the "services.") Auburn shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with Black Diamond. Auburn shall perform the services described in Exhibit A which is attached hereto and by this reference made a part of this Agreement.

### 2. AMENDMENT REQUIRED FOR ADDITIONAL SERVICES

In the event additional IT services are required by Black Diamond beyond those specified in Exhibit A and the compensation listed in this Agreement, and further provided that Auburn has the time and resources to provide such additional services and is willing to provide such services, a contract amendment shall be set forth in writing and shall be executed by the respective parties prior to Auburn's performance of the additional IT services, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an Amendment for additional services, such Amendment shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such Amendment were a part of this

Agreement as originally executed. The performance of services pursuant to an Amendment shall be subject to the terms and conditions of this Agreement except where the Amendment provides to the contrary, in which case the terms and conditions of any such Amendment shall control. In all other respects, any Amendment shall supplement and be construed in accordance with the terms and conditions of this Agreement.

### 3. PERFORMANCE OF ADDITIONAL SERVICES PRIOR TO EXECUTION OF AN AMENDMENT

The parties hereby agree that situations may arise in which IT services other than those described on Exhibit A are desired by Black Diamond and the time period for the completion of such services makes the execution of Amendment impractical prior to the commencement of Auburn's performance of the requested services. Auburn hereby agrees that it shall perform such services upon the request of an authorized representative of Black Diamond at a rate of compensation to be mutually negotiated in connection therewith. Any such additional IT services shall be memorialized in a written amendment in accordance with Section 2 of this Agreement. The invoice procedure for any such additional services shall be as described in Section 6 of this Agreement.

### 4. Black Diamond'S RESPONSIBILITIES

Black Diamond shall do the following in a timely manner so as not to delay the services of Auburn:

- a. Designate in writing a person to act as Black Diamond's representative with respect to the services described in Exhibit A. Black Diamond's designee shall have complete authority to transmit instructions, receive information, interpret and define Black Diamond's policies and decisions with respect to the services, except in the event of an emergency as described in Exhibit A.
- b. Furnish Auburn with all information, criteria, objectives, schedules and standards for the services provided for herein.
- c. Arrange for access to the property or facilities as required for Auburn to perform the services provided for herein.
- d. Examine and evaluate all studies, reports, memoranda, plans, sketches, and other documents prepared by Auburn and render decisions regarding such documents in a timely manner to prevent delay of the services including passwords, facility access and data systems to which Black Diamond is requesting support. Auburn shall use "remote access" technology to support Black Diamond systems where possible to limit onsite costs. Such examples include Firewall, router, computer, Domain controller, active directory, Spillman and secured/ encrypted access to systems designated by Black Diamond to be supported by Auburn.

f. BDPD must complete, and authorize necessary state documents related to "Agency Authorization" designating City of Auburn as IT Technical contact and complete a "Management Control Agreement" filed with WSP that will allow Auburn IT staff to work with CJIS and ACCESS information including SSID, Mnemonics and ORI information to support the system.

5. ACCEPTABLE STANDARDS

Auburn shall be responsible to provide, in connection with the services contemplated in this Agreement, work products and services of a quality and professional standard acceptable to Black Diamond.

6. COMPENSATION

Compensation for Auburn's performance of the services provided for herein are attached as Exhibit B. Annual sum shall be increased January 1, 2014 with advance notice given to Black Diamond, and each January 1 thereafter, by an amount equal to 2% or the most recent Seattle-Tacoma-Bremerton Consumer Price Index - U whichever is greater for the term of this Agreement.

Auburn shall submit to Black Diamond a monthly invoice and Black Diamond shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to Auburn thereafter in the normal course, subject to any conditions or provisions in this Agreement or Amendment.

7. TIME FOR PERFORMANCE AND TERM OF AGREEMENT

Auburn shall perform the services provided for herein in accordance with the direction and scheduling provided in Exhibit A, unless otherwise agreed to in writing by the parties. The initial term of this agreement shall be twelve (12) months and may be extended thereafter by written agreement of the Parties 60 days prior to term end. It is provided, however, that either party may cancel this Agreement upon sixty (60) days written notice to the other party.

8. OWNERSHIP AND USE OF DOCUMENTS

All documents, reports, memoranda, diagrams, sketches, plans, design calculations, working drawings and any other materials created or otherwise prepared by Auburn as part of its performance of this Agreement (the "Work Products") shall be owned by and become the property of Black Diamond, and may be used by Black Diamond for any purpose beneficial to Black Diamond. Public records requests shall be the responsibility of Black Diamond, however Auburn may assist at Black Diamond request at hourly rates provided under exhibit B for onsite support.

9. RECORDS INSPECTION AND AUDIT

All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by Black Diamond for a period of up to three (3) years from the final payment for work performed under this Agreement.

10. CONTINUATION OF PERFORMANCE

In the event that any dispute or conflict arises between the parties while this Contract is in effect, Auburn agrees that, notwithstanding such dispute or conflict, Auburn shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities. Provided that if Black Diamond fails to pay for the services provided by Auburn, Auburn can cease providing such services until payment is made.

11. ADMINISTRATION OF AGREEMENT

This Agreement shall be administered by Ron Tiedeman, Innovation & Technology Director or designee on behalf of Auburn, and by Mark E. Hoppen, City Administrator or designee on behalf of Black Diamond. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

CITY OF AUBURN  
Innovation & Technology  
Ron Tiedeman  
25 W Main St  
Auburn, WA 98001-4998  
Phone: 253-288-3160  
Fax: 253-804-3116  
E-mail: [rtiedeman@auburnwa.gov](mailto:rtiedeman@auburnwa.gov)

CITY OF BLACK DIAMOND  
City Administration  
Mark E. Hoppen  
24301 Roberts Drive  
Black Diamond, WA 98010  
(360) 886-5700  
[mhoppen@ci.blackdiamond.wa.us](mailto:mhoppen@ci.blackdiamond.wa.us)

12. NOTICES

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above.

Either party may change his, her or its address by giving notice in writing, stating

his, her or its new address, to the other party, pursuant to the procedure set forth above.

### 13. INSURANCE

Black Diamond shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Black Diamond's membership in a municipal self-insurance pool, including evidence of limits of coverages, exclusions and limits of liability satisfactory to Auburn.

Auburn shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Auburn's membership in a municipal self-insurance pool, including evidence of limits of coverages, exclusions and limits of liability satisfactory to Black Diamond.

### 14. INDEMNIFICATION

a. Black Diamond shall indemnify and hold Auburn and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against Auburn arising out of, in connection with, or incident to the execution of this Agreement and/or Black Diamond's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of Auburn, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of Black Diamond; and provided further, that nothing herein shall require Black Diamond to hold harmless or defend Auburn, its agents, employees and/or officers from any claims arising from the sole negligence of Auburn, its agents, employees, and/or officers. No liability shall attach to Auburn by reason of entering into this Agreement except as expressly provided herein.

b. Auburn shall indemnify and hold Black Diamond and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against Black Diamond arising out of, in connection with, or incident to the execution of this Agreement and/or Auburn's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of Black Diamond, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the

negligence of Auburn; and provided further, that nothing herein shall require Auburn to hold harmless or defend Black Diamond, its agents, employees and/or officers from any claims arising from the sole negligence of Black Diamond, its agents, employees, and/or officers. No liability shall attach to Black Diamond by reason of entering into this Agreement except as expressly provided herein.

#### 15. WAIVER OF SUBROGATION

Black Diamond and Auburn hereby mutually release each other from liability and waive all right of recovery against each other for any loss caused by fire or other perils which can be insured against under fire insurance contracts including any extended coverage endorsements thereto which are customarily available from time to time in the State of Washington, provided, that this paragraph shall be inapplicable to the extent that it would have the effect of invalidating any insurance coverage of Black Diamond or Auburn.

#### 16. COMPLIANCE WITH REGULATIONS AND LAWS

The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

#### 17. ASSIGNMENT

The parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other party.

#### 18. ATTORNEYS' FEES

If either party shall be required to bring any action to enforce any provision of this Agreement, or shall be required to defend any action brought by the other party with respect to this Agreement, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

#### 19. NONDISCRIMINATION

Each of the parties, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.

## 20. MISCELLANEOUS

- a. All of the covenants, conditions and agreements in this Agreement shall extend to and bind the legal successors and assigns of the parties hereto.
- b. This Agreement shall be deemed to be made and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in King County, Washington.
- c. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.
- d. Unless otherwise specifically provided herein, no separate legal entity is created hereby, as each of the parties is contracting in its capacity as a municipal corporation of the State of Washington. The identity of the parties hereto is as set forth hereinabove.
- e. The performances of the duties of the parties provided hereby shall be done in accordance with standard operating procedures and customary practices of the parties. Semi-annual operational review and service meetings shall be held with representatives from both cities to review and discuss service and support delivery.
- f. No provision of this Agreement shall relieve either party of its public agency obligations and or responsibilities imposed by law.
- g. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time either party shall have the right to terminate the Agreement.
- h. This Agreement constitutes the entire agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.
- i. Copies of this Agreement shall be listed by the parties on their websites as provided for in RCW 39.34.040.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AUBURN

  
\_\_\_\_\_  
Peter B. Lewis  
Auburn Mayor

CITY OF Black Diamond

  
\_\_\_\_\_  
Rebecca Olness  
Black Diamond Mayor

Attest:

  
\_\_\_\_\_

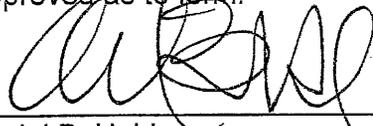
 Danielle Daskam,  
Auburn City Clerk

Attest:

  
\_\_\_\_\_

Brenda L. Martinez,  
Black Diamond City Clerk

Approved as to form:

  
\_\_\_\_\_  
Daniel B. Heid  
Auburn City Attorney

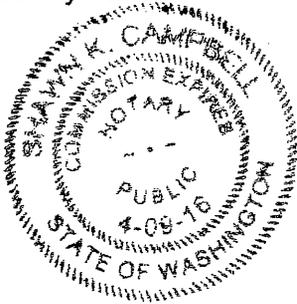
Approved as to form:

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

ON THIS 16<sup>th</sup> day of September, <sup>2013</sup> ~~2011~~, before me personally appeared Dete Lewis and \_\_\_\_\_ to me known to be the Mayor and \_\_\_\_\_ of The City of Auburn, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



[Signature]  
NOTARY PUBLIC in and for the State of Washington, residing at King County  
My Commission Expires: 4/9/2016

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

ON THIS 9<sup>th</sup> day of October, <sup>2013</sup> ~~2011~~, before me personally appeared Rebecca Olness and \_\_\_\_\_ to me known to be the Mayor and \_\_\_\_\_ of the City of Black Diamond, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



[Signature]  
NOTARY PUBLIC in and for the State of Washington, residing at Black Diamond  
My Commission Expires: 8/13/16

**EXHIBIT A  
SCOPE OF SERVICES**

**Services Provided:**

- General network and desktop support
- Application and software end user support
- Operating system patch management
- Technical recommendations

**Requesting support:**

All requests for service should be emailed to [helpdesk@auburnwa.gov](mailto:helpdesk@auburnwa.gov). The request will be forwarded to City of Auburn technical staff for resolution. Persons authorized to request support on a non-emergency basis are City of Black Diamond Police Department staff and designees.

**Service levels:**

For requests e-mailed Monday through Friday from 7:00 am to 5:00 pm, we will try to respond within 30 minutes. During high call volumes, we will assist you as soon as possible.

With authorization of Mayor, City Administrator or Police Chief, support outside regular business hours will be provided on an emergency basis. If you need an immediate response during off hours and have the appropriate authorization, please email [helpdesk@auburnwa.gov](mailto:helpdesk@auburnwa.gov) with the name of authorizing person and nature of issue or call 253-876-1947. Your issue will be forwarded to the on-call technician for resolution.

**Service Limitations:**

- City of Auburn will assist and provide recommendations on network security but security remains the responsibility of City of Black Diamond.
- City of Auburn will document, and present information relevant to technical audits however compliance will be the responsibility of Black Diamond, including CJIS and ACCESS Audits.
- City of Auburn will assist and provide recommendations on hardware and software purchases. All hardware and software purchases are the responsibility of City of Black Diamond.
- Unless otherwise specified via addendum or SOW "additional services" identified below will be the responsibility of Black Diamond.

**Additional Services:**

Current IT support is based on needs and requests of Black Diamond Police. City of Auburn may provide City-wide support based on same hourly rate, however all non-police department support will be in addition to the basic services and support payment. Black Diamond representatives may negotiate to add interim city-wide support services or additional services to this ILA through an addendum process in the event additional ongoing services are needed while both parties seek appropriate Mayor and Council approval.

Additional services include but are not limited to:  
GIS Services  
Spillman hosting and support  
Licensing Support : Netmotion and Virus Protection  
Web Application and Design Services  
Publishing and Design Services  
Multimedia/ Film Services

**Billing:**

All service will be billed monthly according to Exhibit B. Services that are billed on an hourly basis will include a brief description of the service and the department where the service was performed. Monthly charges for service are based on an estimated 100 helpdesk requests annually. In the event annual helpdesk requests exceed 100 tickets, City of Black Diamond agrees to negotiate these additional services which may include mutually agreed adjustments to monthly service charges.

**EXHIBIT B  
COST OF SERVICES**

Support Function	Operating Hours	Billing rate	Monthly cost
Project Specific one-time start-up Fees: Evaluation of current needs identifies upfront hours of support to stabilize Police services, software and systems. We estimate approximately 20-30 hours of onsite work to accomplish specific requests in a timely fashion. Estimate includes: Firewall and VPN configuration, Vehicle MDC reimaging, profile updates, State Link activation, and network administration	Staff will coordinate with Black Diamond on appropriate times to accomplish work onsite. Billing will be based on time spent, and billed for actual hours as they occur.	\$1500.00 - \$2250.00 plus mileage. First month will be prorated based on completion of 20-30 hours.	n/a
General Network and desktop maintenance and support including operating system patch management, virus system software management, general troubleshooting and problem resolution that can be via remote access/phone and minimal Black Diamond Auburn office visits where deemed possible allowing equipment drop off and minimal hands on configuration support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$400.00 / month effective October 1, 2013 and monthly thereafter	\$400.00
Network and desktop repair and maintenance that require onsite support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$75.00 / hour plus mileage based on IRS standard mileage rate	Per hour as required
All support responses by City of Auburn technical support staff.  <b>Note:</b> COA technical support staff will not respond without authorization from City of Black Diamond Mayor, Police Chief or City Administrator.	Non business hours, afterhours, emergency response	\$110.00 / hour with one hour minimum plus mileage based on IRS standard mileage rate	Per incident as required
Netmotion Client Software	n/a	n/a	Per event
Virus Protection Software	n/a	n/a	Yearly



RESOLUTION NO. 14-913

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE ADDENDUM NO. 1 TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUBURN AND THE CITY OF BLACK DIAMOND FOR IT SERVICES

WHEREAS, on October 3, 2013 the City entered into an Interlocal Agreement with the City of Auburn to provide the police department with IT services; and

WHEREAS, during the 2014 budget process City Council eliminated the Information Services position from the budget: and

WHEREAS, it is the desire of the City Council to have the City of Auburn provide city-wide information services;

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

Section 1. The Mayor is hereby authorized to execute Addendum No. 1 to the Interlocal Agreement between the City of Auburn and the City of Black Diamond for city-wide information services, in the form substantially attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 2ND DAY OF JANUARY, 2014.

CITY OF BLACK DIAMOND:



\_\_\_\_\_  
Dave Gordon, Mayor

Attest:

  
Brenda L. Martinez, City Clerk

ADDENDUM NO. 1

ADDENDUM TO INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF BLACK DIAMOND AND THE CITY OF AUBURN  
RELATING TO INFORMATION TECHNOLOGY

**THIS ADDENDUM** is made and entered into this 16<sup>th</sup> day of December, 2013, by and between **CITY OF BLACK DIAMOND** ("Black Diamond"), a municipal corporation of the State of Washington, and the **CITY OF AUBURN**, a municipal corporation of the State of Washington (hereinafter referred to as "Auburn"), as an addendum to the Agreement between the parties for Information Technology Services executed on September 16, 2013, ("Original Agreement") pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington (RCW).

RECITALS:

1. The parties entered into an Interlocal Agreement for Information Technology Services to be provided by Auburn to Black Diamond for Black Diamond's Police Department.
2. Black Diamond wishes to expand the information technology services provided by Auburn.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, the PARTIES HERETO HEREBY AGREE as follows:

1. Section 2 of the Original Agreement is amended to read as follows:
  2. AMENDMENT REQUIRED FOR ADDITIONAL SERVICES

In the event additional IT services are required by Black Diamond or reduction in services are necessary beyond those specified in Exhibit A and the compensation listed in this Agreement, and further provided that Auburn has the time and resources to provide such additional services and is willing to provide such services, a contract amendment shall be set forth in writing and shall be executed by the respective parties prior to Auburn's performance of the additional IT services, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an Amendment for additional services, such Amendment shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such Amendment were a part of this Agreement as originally executed. The performance of services pursuant to an Amendment shall be subject to the terms and conditions of this Agreement except where the Amendment

provides to the contrary, in which case the terms and conditions of any such Amendment shall control. In all other respects, any Amendment shall supplement and be construed in accordance with the terms and conditions of this Agreement.

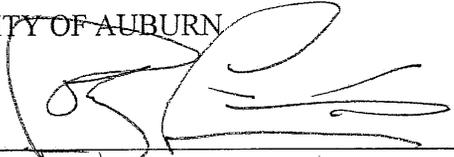
2. Sections 1 and 4(f) of the Original Agreement are amended to strike the reference to the Black Diamond Police Department or "BDPD," and to insert "Black Diamond" in its place.

3. Exhibits A and B of the Original Agreement are replaced with Exhibits A and B to this Addendum.

4. REMAINING TERMS UNCHANGED: That all other provisions of the Original Agreement shall remain unchanged, and in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AUBURN

  
Peter B. Lewis  
Auburn Mayor

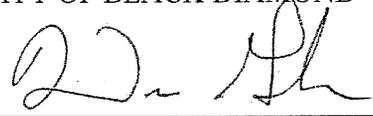
Attest:

  
Danielle Daskam,  
Auburn City Clerk

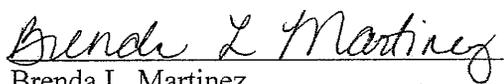
Approved as to form:

  
Daniel B. Heid  
Auburn City Attorney

CITY OF BLACK DIAMOND

  
Black Diamond Mayor

Attest:

  
Brenda L. Martinez,  
Black Diamond City Clerk

Approved as to form:

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

**Services Provided:**

- Onsite Auburn IT Staff Presence: Auburn primary support function will be via remote access and administration with primary contact and support provided through email: [helpdesk@auburnwa.gov](mailto:helpdesk@auburnwa.gov) and phone support. Remote login and various technical configuration management will be utilized to minimize onsite and travel charges. Under this service level, City of Black Diamond will be allotted "onsite presence" 1 day (7.5 hours) per week hours per month or up to 416 hours per year specific to meeting support and technical requirements. Auburn IT staff will also respond onsite to all technical matters not repairable remotely, and will attempt to respond to non-critical items in multiples to minimize trips where possible.
- General network and desktop support
- GIS and Mapping Services shall be provided on a per project basis, with printing costs the responsibility of Black Diamond based on current Auburn rate schedules.
- Maintenance and management of Servers and "back-end" equipment to include:
  - Telephones, sound equipment, servers, network equipment (routers, firewalls, switches)
  - Server administration, including user setup, access, email and help desk functionality
- Public Meetings: (set-up and attendance at meetings to run equipment included in monthly fee "on-site presence" not to exceed 416 total hours in a year)
- Purchasing: Recommendations, quotes, vendor discussions. Purchasing, purchase orders and requisitions will be the responsibility of Black Diamond.
  - Black Diamond can be added to certain City of Auburn software and hardware agreements to receive similar cost savings where applicable. Such areas including Microsoft volume licensing, Spillman, Sharepoint, Antivirus protection, Netmotion and others.
- Web Services –
  - Website updates, postings, and monitoring
  - Meeting audio conversion and website upload
  - Website design recommendations and future planning
- Backup operations, offsite storage and disaster recovery
  - Auburn will evaluate current backup and disaster contingency plans and make recommendations. Typically this includes weekly offsite storage which is paid for by customer, and daily incremental and differential backups.
  - Disaster recovery may result in an addition of services, or evaluation and recommendation to enhance business continuity and operations based on current procedures.
- Application and software end user support
- Vendor coordination and management as needed
- Operating system, and software patch management

- Limited GIS services and consulting with printed material at cost
- Technical recommendations including:
  - Long and short term strategic planning
  - Disaster recovery and business continuity planning
  - Technology budget recommendations and planning
  - Audit documentation and assistance with CJIS and WCIA annual audits

**Requesting support:**

All requests for service should be emailed to [helpdesk@auburnwa.gov](mailto:helpdesk@auburnwa.gov). Phone calls will be accepted as well, however tracking tickets and support via our help desk system is preferred with a follow up phone call from Auburn staff. The request will be forwarded to City of Auburn technical staff for resolution. Persons authorized to request support on a non-emergency basis are City of Black Diamond employees or their designee.

**Service levels:**

For requests e-mailed Monday through Friday from 7:00 am to 5:00 pm, we will try to respond within 30 minutes. During high call volumes, we will assist you as soon as possible.

With authorization of Mayor, City Administrator or Police Chief, support outside regular business hours will be provided on an emergency basis. If you need an immediate response during off hours and have the appropriate authorization, please email [helpdesk@auburnwa.gov](mailto:helpdesk@auburnwa.gov) with the name of authorizing person and nature of issue or call 253-876-1947. Your issue will be forwarded to the on-call technician for resolution.

**Service Limitations:**

- City of Auburn will assist and provide recommendations on network security but security remains the responsibility of City of Black Diamond.
- City of Auburn will document, and present information relevant to technical audits however compliance will be the responsibility of Black Diamond, including CJIS and ACCESS Audits.
- City of Auburn will assist and provide installation and recommendations on hardware and software purchases. All hardware and software purchases are the responsibility of City of Black Diamond.

**Additional Services:**

City of Auburn may provide additional services, or alter existing services through the appropriate approval process and addendum.

Additional services include but are not limited to:

GIS Services

Licensing Support : Netmotion and Virus Protection

Web Application and Design Services  
Publishing and Design Services  
Multimedia/ Film Services

**Billing:**

All service will be billed monthly according to Exhibit B. Services that are billed on an hourly basis will include a brief description of the service and the department where the service was performed. Monthly charges for service are based on an estimated 400 helpdesk requests annually. In the event annual helpdesk requests exceed 400 tickets, City of Black Diamond agrees to negotiate these additional services which may include mutually agreed adjustments to monthly service charges.

**EXHIBIT B  
COST OF SERVICES**

Support Function	Operating Hours	Billing rate	Monthly cost
General Network and desktop maintenance and support including operating system patch management, virus system software management, general troubleshooting and problem resolution that can be via remote access/phone and minimal Black Diamond Auburn office visits where deemed possible allowing equipment drop off and minimal hands on configuration support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$3300.00 / month effective January 2, 2014 and monthly thereafter	\$3300.00
Network and desktop repair and maintenance that require onsite support.	M - F, 7 a.m. - 5 p.m. excluding holidays	Included. Mileage billed separately and based on IRS standard mileage rates	Per hour as required
All support responses by City of Auburn technical support staff.  <b>Note:</b> COA technical support staff will not respond without authorization from City of Black Diamond Mayor, Police Chief or City Administrator.	Non business hours, afterhours, emergency response	\$110.00 / hour with one hour minimum plus mileage based on IRS standard mileage rate	Per incident as required
Netmotion Client Software	n/a	Evaluation Option	Per Client
Virus Protection Software	n/a	Evaluation Option	Yearly

# CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
<b>SUBJECT:</b>	<b>Agenda Date: December 18, 2014</b>	<b>AB14-129</b>
<b>AB14-129</b>  <b>Ordinance No. 14-1045, adding a new Chapter 9.09 to the Municipal Code setting standards for the delivery of public defender services as required by RCW 10.101.030.</b>	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	X
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
	Court – Stephanie Metcalf	
Cost Impact (see also Fiscal Note):		
Fund Source:		
Timeline:		
<b>Agenda Placement:</b> <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
<b>Attachments: Proposed Ordinance No. 14-1045; supporting material</b>		
<b>SUMMARY STATEMENT:</b>  RCW 10.101.030 requires the City to adopt public defense standards whether the services are provided by contract, assigned counsel or public defender office. The Washington State Supreme Court adopted new Standards for Indigent Defense that includes misdemeanor case load limits and certificates of compliance, effective January 1, 2015. This ordinance will establish Chapter 9.09 Public Defense Services in the Black Diamond Municipal Code in compliance with state law and Washington Supreme Court standards.		
<b>FISCAL NOTE (Finance Department):</b>		
<b>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Ordinance No.14-1045, establishing Chapter 9.09 Public Defense Services in the Black Diamond Municipal Code setting standards for the delivery of public defender services, including misdemeanor case load limits and certificates of compliance as required under state law and Washington Supreme Court standards.</b>		
<b>RECORD OF COUNCIL ACTION</b>		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 18, 2014		

ORDINANCE NO. 14-1045

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON RELATING TO INDIGENT DEFENSE STANDARDS, ADDING A NEW CHAPTER 9.09 TO THE BLACK DIAMOND MUNICIPAL CODE, SETTING STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES AS REQUIRED BY RCW 10.101.030, WHICH STANDARDS SHALL INCLUDE COMPENSATION OF COUNSEL, DUTIES AND RESPONSIBILITIES OF COUNSEL, CASE LOAD LIMITS AND TYPES OF CASES, RESPONSIBILITY FOR EXPERT WITNESS FEES AND OTHER COSTS, REPORTS OF ATTORNEY ACTIVITY AND VOUCHERS, TRAINING, SUPERVISION, MONITORING AND EVALUATION OF ATTORNEYS, AND A NUMBER OF OTHER STANDARDS, SETTING AN EFFECTIVE DATE

WHEREAS, it is a constitutional requirement, a requirement of Chapter 10.101 RCW and a public purpose that each person charged with a crime punishable by incarceration or involved in certain other proceedings that may result in loss of liberty or loss of fundamental rights, be provided with effective legal representation in order to ensure equal justice under law without regard to ability to pay; and

WHEREAS, it is the intention of the City Council, consistent with Chapter 10.101 RCW and other applicable law, to make such services available in an efficient manner that provides effective representation at reasonable cost to the City; and

WHEREAS, RCW 10.101.030 requires the City to adopt standards for the delivery of Public Defense Services, whether those services are provided by contract, assigned counsel or a public defender office; and

WHEREAS, the Washington State Bar Association has developed standards for Public Defense Services (2011); and

WHEREAS, the Washington Supreme Court by Order No. 25700-A-1004, as amended, has adopted new Standards for Indigent Defense and a certificate of compliance, including misdemeanor case load limits, effective January 1, 2015;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** New Chapter. That the Black Diamond Municipal Code shall be, and is hereby, amended to add Chapter 9.09, to read as follows; provided manifest and numbering errors shall be corrected prior to publication:

**Chapter 9.09**  
**PUBLIC DEFENSE SERVICES**

**Sections:**

- 9.09.010 Statement of Intent and Interpretation.**
  - 9.09.020 Compensation.**
  - 9.09.030 Duties and Responsibilities of Counsel.**
  - 9.09.040 Caseload Limits, Private Practice Limits and Reporting.**
  - 9.09.050 Experts and Investigators.**
  - 9.09.060 Administration and Support Services.**
  - 9.09.070 Qualifications and Training.**
  - 9.09.080 Supervision, Monitoring and Evaluation of Attorneys.**
  - 9.09.090 Substitution Conflict Counsel.**
  - 9.09.100 Disposition of Client Complaints.**
  - 9.09.110 Termination and Removal of Defender Services.**
  - 9.09.120 Non-Discrimination.**
  - 9.09.130 Guidelines for Awarding Public Defense Contracts.**
  - 9.09.140 Update and Evaluation.**
- 

**9.09.010 Statement of Intent and Interpretation.**

These standards for Public Defense Services are adopted in order to comply with the requirements of RCW 10.101 and the Washington State Supreme Court Standards for Indigent Defense (CrRLJ 3.1 Standards). The provisions of these standards shall be broadly and liberally construed to achieve their stated purpose, which is to provide standards which afford “quality representation” in the provision of public defense to indigent criminal defendants. “Quality representation” describes the minimum level of attention, care, and skill that Washington citizens would expect of their State’s criminal justice system. These standards may be amended from time to time to reflect changes in the rules established by the Washington State Supreme Court, the Washington State Bar Association Standard for Indigent Defense Services (WSBA Indigent Defense Standards), or interpretations of the rules and standards by the Washington courts.

**9.09.020 Compensation.<sup>1</sup>**

The City’s public defender(s) compensation shall be established through negotiation of a contract for defender services. The compensation package should reflect the customary compensation of the community for similar services rendered by other publicly paid attorneys to a public client. The City shall consider training, experience, and the nature and extent of services requested and the time and labor required of the attorney undertaking defender services. Services

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<sup>1</sup> WSBA Indigent Defense Standard 1

which require extraordinary fees should be defined in the contract. Among the reasonable expenses to be covered by the contract include expert witnesses, investigative costs, and the administrative overhead costs of paraprofessionals, including, as needed, mental health professionals, social workers, and translators.

**9.09.030 Duties and Responsibilities of Counsel.<sup>2</sup>**

- A. Public Defense Services shall be provided to all clients in a professional, skilled manner consistent with the minimum standards set forth by the American Bar Association, the Washington State Bar Association, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. The Public Defender's primary and most fundamental responsibility is to promote and protect the interests of the client.
- B. Public Defense shall be provided to indigent clients whose eligibility has been determined by court appointment.
- C. All Public Defenders providing services by contract shall quarterly certify their compliance with the standards for indigent defense by filing a Certification of Compliance as required by CrRLJ 3.1. Such forms shall be filed with the City of Black Diamond Municipal Court.

**9.09.040 Caseload Limits<sup>3</sup>, Private Practice Limits<sup>4</sup> and Reporting.<sup>5</sup>**

- A. The caseload of the Public Defender shall consist of misdemeanors and RALJ appeals to Superior Court. A case is defined as the filing of a document with the Court naming a person as a defendant or respondent, to which an attorney is appointed in order to provide representation.
- B. No Public Defender performing services by contract shall exceed four hundred (400) cases in any calendar year. Contracts for Services shall prohibit the Public Defender from performing services under any other similar contract which, taken in conjunction with the services to be performed under the contract, would exceed the case count in any calendar year. The case count for a Public Defender who maintains a private practice shall be adjusted to reflect the relative percentage which criminal defense relates to the Public Defender's total practice. For example, based on an attorney whose practice consists of fifty percent (50%) services provided under contract to the City (adjusted for any other Public Defense Services performed for another entity) and fifty percent (50%) private practice, the total case count for such an attorney shall not exceed two hundred (200) cases.
- C. The request for qualifications process for selection of a Public Defender and Public Defender Counsel shall strive to obtain a Public Defender whose experience and training is sufficient to comport with the caseload assumptions and credits assigned. Attorneys

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<sup>2</sup> WSBA Indigent Defense Standard 2

<sup>3</sup> CrRLJ 3.1 Standard 3; WSBA Indigent Defense Standard 3

<sup>4</sup> CrRLJ 3.1 Standard 13; WSBA Indigent Defense Standard 13

<sup>5</sup> WSBA Indigent Defense Standard 8

assigned to RALJ appeals shall have a minimum of one year's experience in RALJ appeals or in the event multiple attorneys perform services in the contract, a minimum of one attorney assigned to or supervising RALJ appeals shall have such experience.

- D. The standards provided herein for caseloads may be adjusted up or down depending upon the complexity of any particular case. A Public Defender may request to have the weighting for an unusually complex case not addressed adequately by these standards increased depending upon the complexity and requirements of the case, and such adjustment shall not be unreasonably refused by the City. The maximum caseload for a particular attorney shall be adjusted downward when the mix of case assignments becomes weighted toward an unanticipated number of more serious offenses or case types that demand more investigation, legal research and writing, use of experts, and/or social workers or other expenditure of time and resources.
- E. If a Public Defender or assigned counsel is carrying a caseload consisting of cases performed under contract with the City, as well as other criminal cases from other jurisdictions, including a mixed caseload of felonies and misdemeanors, these standards shall be adjusted proportionally to determine a full caseload. If the contract or assigned counsel also maintains a private law practice, the caseload shall be based upon the percentage of time that the lawyer devotes to public defense with the City.
- F. Monthly reports shall be provided by the Public Defender to the Court Administrator. The report shall identify the number and type of cases assigned, attorney hours, case disposition, the case count year-to-date, and cases which the Public Defender has been assigned a higher case count. The Public Defender case tracking and reporting system shall be maintained independently from client files so as to disclose no privileged information.

#### **9.09.050      Experts<sup>6</sup> and Investigators.<sup>7</sup>**

- A. A Public Defense Contract shall provide reasonable compensation for an expert of the Public Defender's choosing. No appointment shall be from a pre-approved list designated by the City Attorney, the City Prosecutor, or other City officials. The services of expert witnesses will be provided under contract when approved by the Court through ex parte motion. The expert will be paid directly by the City.
- B. Public defense attorneys shall use investigation services as appropriate. The investigator shall have appropriate training and experience in the area of criminal defense and investigations relating to criminal matters. Normally, a ratio of one investigator to four attorneys shall be provided as necessary. Contracts for Public Defense Services shall include investigative services as a part of reimbursed overhead.

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<sup>6</sup> WSBA Indigent Defense Standard 4

<sup>7</sup> CrRLJ 3.1 Standard 6; WSBA Indigent Defense Standard 6

**9.09.060 Administration<sup>8</sup> and Support Services.<sup>9</sup>**

- A. Contracts for public defense services and proposals submitted in pursuit of such contracts shall provide for or include adequate administrative costs and support, including but not limited to travel, telephones, law library and/or electronic research capabilities, financial accounting, case management systems, computers, word processing equipment and software, office space and supplies. The Public defense attorney shall have access to an office that accommodates confidential meetings with clients and a telephone system, internet access and postal address to ensure prompt response to client contact.
- B. Public defense attorneys shall have adequate support staff to ensure the effective performance of defense counsel.

**9.09.070 Qualifications<sup>10</sup> and Training.<sup>11</sup>**

- A. Every Public Defender performing services under contract with the City shall satisfy the minimum requirements for practicing law in the State of Washington as determined by the Washington State Supreme Court and possess a license to practice law in the State.
- B. Public Defenders performing services under contract shall:
  - 1. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to the practice area; and
  - 2. Be familiar with the Washington Rules of Professional Conduct (WRPC); and
  - 3. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and
  - 4. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based upon a criminal conviction; and
  - 5. Be familiar with mental health issues and be able to identify the need to obtain expert services; and
  - 6. Complete seven (7) hours of continuing legal education within each calendar year and courses related to public defense practice; and
  - 7. Have the opportunity to attend courses that foster trial advocacy skills and to review professional publications and other media; and
  - 8. Complete and sign the Certification Form included in the Public Defense contract.

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<sup>8</sup> CrRLJ 3.1 Standard 5; WSBA Indigent Defense Standard 5.2

<sup>9</sup> WSBA Indigent Defense Standard 7

<sup>10</sup> CrRLJ 3.1 Standard 14; WSBA Indigent Defense Standard 14

<sup>11</sup> WSBA Indigent Defense Standard 9

**9.09.080 Supervision,<sup>12</sup> Monitoring and Evaluation<sup>13</sup> of Attorneys.**

The City recognizes that smaller firms providing Public Defense Services may provide quality service through experienced practitioners. When applicable, public defenders should make provision for supervision, monitoring and evaluation in accordance with Bar Association standards or provide alternative methods for the supervision, monitoring and evaluation of attorneys which achieve substantially the same goals shall be given for effective supervision, monitoring and evaluation. Supervision and evaluation efforts should include review of time and caseload records, review and inspection of transcripts, in-court observations, and periodic conferences. Performance evaluations made by a supervising attorney should be supplemented by comments from judges, prosecutors, other defense lawyers and clients. Attorneys should be evaluated on their skill and effectiveness as criminal lawyers or as dependency or civil commitment advocates.

**9.09.090 Substitution Conflict Counsel.<sup>14</sup>**

- A. The selection process for a Public Defender shall be by review of names and experience levels of the attorneys who will actually provide services, to ensure that they meet minimum qualifications. The Public Defender shall be prohibited from sub-contracting defense services without the express written consent of the City.
- B. In the event of conflict or removal of the Public Defender, Conflict Counsel shall be available, either through a joint contract with the Public Defender and Conflict Counsel, by separate contract with Conflict Counsel or by court appointment. In the event that alternative or Conflict Counsel is required to be assigned, the Public Defender shall bear no part of the costs associated with the appointment of alternative or sub-Conflict Counsel. The Public Defender shall continue representation of clients as necessary upon conclusion of the agreement for public defense services.
- C. Conflict Counsel shall adhere to the standards established by this Chapter, including but not limited to, an evaluation and reporting of the case count under the procedures set forth in this ordinance.
- D. Conflict Counsel may be assigned by the Municipal Court upon the request of the Public Defender.

**9.09.100 Disposition of Client Complaints.<sup>15</sup>**

The Public Defender shall provide a method to respond promptly to client complaints. Complaints should first be directed to the attorney, firm or agency which provided representation. If the client feels that he or she has not received an adequate response, the City shall designate a person or agency to evaluate the legitimacy of complaints and to follow up meritorious ones. The complaining client should be informed as to the disposition of his or her complaint within one

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<sup>12</sup> WSBA Indigent Defense Standard 10

<sup>13</sup> WSBA Indigent Defense Standard 11

<sup>14</sup> WSBA Indigent Defense Standard 12

<sup>15</sup> WSBA Indigent Defense Standard 15

week. Nothing herein shall bar a client from also filing a complaint with the Washington State Bar Association.

**9.09.110 Termination and Removal of Defender Services.<sup>16</sup>**

Termination of the contract shall occur for “good cause.” Good cause shall include the failure of the contract Public Defender to render adequate representation to clients, the willful disregard of the rights and best interests of the client, and the willful disregard of the these standards. Termination may also occur for violation of the express terms of the contract, and these standards, provided, however, that the Public Defender shall be provided reasonable opportunity, following notice, to cure any technical contract violations that do not impair the provision of quality representation to the indigent client. Removal by the Court of counsel from representation normally should not occur over the objection of the attorney and the client.

**9.09.120 Non-Discrimination.<sup>17</sup>**

Neither the City, in its selection of an attorney, firm or agency to provide public defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation or handicap. Both the City and the contractor shall comply with all federal, state and local nondiscrimination requirements.

**9.09.130 Guidelines for Awarding Public Defense Contracts.<sup>18</sup>**

City attorneys, county prosecutors, and law enforcement officers shall not select the attorneys who will provide indigent defense services.<sup>19</sup> The City should award contracts for public defense services only after determining that the attorney or firm chosen can meet accepted professional standards. Under no circumstances should a contract be awarded on the basis of cost alone. Attorneys or firms bidding for contracts must demonstrate their ability to meet these standards. Contracts should only be awarded to attorneys who have at least one year's trial experience.

**9.09.140 Update and Evaluation.**

The City will review and modify these standards as necessary when the rules established by the Washington State Supreme Court are applied and interpreted by the courts and, when appropriate, changes are adopted by the Bar Association and other administrative agencies.

Section 2. Severability. If any one or more section, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.

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<sup>16</sup> WSBA Indigent Defense Standard 16

<sup>17</sup> WSBA Indigent Defense Standard 17

<sup>18</sup> WSBA Indigent Defense Standard 18

<sup>19</sup> RCW 10.101.040

Section 3. Effective Date. This ordinance shall be in full force and effect from and after five (5) days from the date of its passage and publication as provided by law.

PASSED by the City Council on this 18<sup>th</sup> day of December, 2014.

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MAYOR CAROL BENSON

ATTEST/AUTHENTICATED:

---

BRENDA MARTINEZ, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

---

CAROL A. MORRIS, City Attorney

PUBLISHED:  
EFFECTIVE DATE:  
POSTED DATE:

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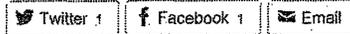
## Caseload Limits for Indigent Defense Standards Delayed Until January 1, 2015

Posted on April 10, 2013 by Bob Meinig

As part of the new Standards for Indigent Defense, caseload limits were to take effect on September 1, 2013, while the rest of the standards took effect on October 1, 2012. However, the state supreme court has now delayed the implementation of caseload limits until January 1, 2015, to provide time for the Washington State Office of Public Defense to conduct a "statewide attorney time study" and to develop a model misdemeanor case weighting policy that is consistent with the indigent defense standards adopted by the court. Washington State Supreme Court Order No. 25700-A-1016 (☞), 04/08/2013.

Under the caseload limits in Standard 3.4, full-time public defenders should not have caseloads exceeding 300 or 400 misdemeanor cases per year, depending on whether the jurisdiction has developed a "numerical case weighting" system, described in Standard 3.6.

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### About Bob Meinig

Bob has written extensively on the state Open Public Meetings Act and on municipal incorporation and annexation. At MRSC, he has also advised local governments for over 24 years on diverse legal issues.

[View all posts by Bob Meinig →](#)

This entry was posted in Legal, Public Safety. Bookmark the permalink.

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MRSC Insight

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# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE STANDARDS )  
FOR INDIGENT DEFENSE IMPLEMENTATION )  
OF CrR 3.1(d), JuCR 9.2(d) and CrRLJ 3.1(d) )  
\_\_\_\_\_ )

## ORDER

No. 25700-A- 1016

WHEREAS, the Office of Public Defense submitted a report to the Washington Supreme Court on implementation of Standards for Indigent Defense pursuant to Order No. 1013; and

WHEREAS, the Office of Public Defense has reported that many local jurisdictions plan to adopt a case-weighting policy for purposes of calculating misdemeanor case loads as identified in Standards 3.4, 3.5, and 3.6, and further, that during the report's preparation, jurisdictions said they are looking to the State to develop a model case-weighting policy;

WHEREAS, the generally accepted approach to properly develop a case-weighting policy includes conducting a time study to calculate the amount of time required for constitutionally effective representation for criminal defense cases; and

Now, therefore, it is hereby

ORDERED:

That the director of the Washington State Office of Public Defense, a judicial branch agency, conduct a statewide attorney time study which includes, among other information, time records of public defense attorneys from various jurisdictions who wish to participate on a volunteer basis; the director shall also develop a model misdemeanor case-weighting policy consistent with CrRLJ 3.1 and the Standards for Indigent Defense adopted by this Court. Recognizing the unique challenges associated with conducting a statewide time study in a state

FILED  
SUPREME COURT  
WASHINGTON  
2013 APR -8 A 8:42  
RONALD J. CAPRANTER  
CLERK

661/1

IN THE MATTER OF THE STANDARDS FOR INDIGENT DEFENSE IMPLEMENTATION  
OF CrR 3.1(d), JuCR 9.2(d) and CrRLJ 3.1(d)

where misdemeanor public defense attorneys are decentralized, the time study and model policy should, to the extent practicable, allow for reasonable adjustments based on local factors.

IT IS FURTHER ORDERED:

That implementation of the misdemeanor case load limits set forth in Standard 3.4 of the Standards for Indigent Defense shall be delayed until January 1, 2015.

DATED at Olympia, Washington this 8th day of April, 2013.

For the Court

  
\_\_\_\_\_  
CHIEF JUSTICE

# CITY COUNCIL AGENDA BILL

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

## ITEM INFORMATION

<b>SUBJECT:</b> AB14-130		<b>Agenda Date: December 18, 2014</b>		<b>AB14-130</b>
<b>Resolution authorizing the Mayor to execute an agreement with the Accelerant Group for the continued support and maintenance of the Tiburon to Spillman Interface</b>		Mayor Carol Benson		
		City Administrator		
		City Attorney Carol Morris		
		City Clerk – Brenda L. Martinez		
		Com Dev/Nat Res – Aaron Nix		
		Finance – May Miller		
		MDRT/Eco Dev – Andy Williamson		
		Police – Chief Kiblinger		X
Cost Impact (see also Fiscal Note): \$1,200	Fund Source: General Fund Police Budget	Timeline:	Public Works – Seth Boettcher	
			Court – Stephanie Metcalf	
<b>Agenda Placement:</b> <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator				
<b>Attachments: Proposed Resolution No. 14-999; Agreement</b>				
<p><b>SUMMARY STATEMENT:</b> On December 6<sup>th</sup> 2012, council approved resolution #12-842, authorizing several cities to share in the cost of developing an interface to facilitate the automated retrieval of incident data from the CAD system into their Spillman system (records management.) Data Pros installed the interface. Data Pros has since changed their name to the Accelerant Group and the attached resolution covers the continued support and maintenance of the interface.</p> <p><b>FISCAL NOTE (Finance Department):</b></p>				
<b>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</b> Public Safety Committee				
<b>RECOMMENDED ACTION: MOTION to adopt Resolution No. 14-999, authorizing the Mayor to execute an agreement with the Accelerant Group for the continued support and maintenance of the Tiburon to Spillman Interface.</b>				
<b>RECORD OF COUNCIL ACTION</b>				
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>		
December 18, 2014				

**RESOLUTION NO. 14-999**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE ACCELERANT GROUP FOR THE CONTINUED SUPPORT AND MAINTENANCE OF THE TIBURON TO SPILLMAN INTERFACE**

**WHEREAS**, the City of Black Diamond entered into an inter-local agreement for the development of the Tiburon to Spillman Interface on December 6<sup>th</sup>, 2012, which agreement requires City of Black Diamond to enter into a separate contract with Data Pros for the installation and maintenance of the software by Data Pros; and

**WHEREAS**, Data Pros has since changed their name to Accelerant Group; and

**WHEREAS**, the City of Black Diamond would like to continue with the ongoing maintenance and support of the interface with the Accelerant Group;

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

**Section 1.** The Mayor is hereby authorized to execute an Agreement between the City of Black Diamond and Accelerant Group for the continued support and maintenance of the Tiburon to Spillman Interface software.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 18TH DAY OF DECEMBER, 2014.**

CITY OF BLACK DIAMOND:

\_\_\_\_\_  
Carol Benson, Mayor

Attest:

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

## **CUSTOM SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT**

THIS AGREEMENT ("Agreement") is entered into on 11/20/2014, between Accelerant Group, Incorporated ("Provider"), with its principal place of business located at 5296 South Commerce Drive, Suite 300, Salt Lake City, UT 84107 and City of Black Diamond ("Client") and shall be effective as of 11/20/2014 (the "Effective Date").

### **RECITALS**

WHEREAS, Provider is engaged in the business of computer application development, including technical consulting services, custom software development and maintenance,

WHEREAS, Client will from time to time require maintenance and support regarding the use of the Software.

NOW THEREFORE, Provider and Client agree as follows:

#### **1. Scope of Services**

Provider agrees to perform, and Client agrees to accept the maintenance and support services referred to in Exhibit A (Statement of Work) with respect to the Software.

#### **2. Price and Payment Terms**

Client will pay Provider for Provider's Work on the terms and conditions set forth in Exhibit A (Statement of Work).

#### **3. Term and Termination**

Unless terminated as provided herein, this Agreement will extend for a period of 12 months and will automatically renew from year to year thereafter, unless earlier terminated as provided herein. Either party may terminate this Agreement without cause upon thirty (30) days written notice. In the event of termination without cause, Client agrees to pay Provider for all of Provider's Work performed up to the date of termination. Either party may terminate this agreement upon written notice for material breach, provided, however, that the terminating party has given the other party at least fourteen (14) days written notice of and the opportunity to cure the breach. Termination for breach will not alter or affect the terminating party's right to exercise any other remedies for breach.

#### **4. Ownership of Intellectual Property**

Provider will retain ownership of all proprietary rights in Provider's Work, including certain rights, if any, that Provider has pursuant to license from another party. Upon full payment of the fees set forth in this Agreement, Provider will grant to Client a non-exclusive license to use the Software, as modified or enhanced, in its own business. Client is not authorized to sell or license the Software or rights thereto to any other person or firm.

## **5. Confidential Information**

A. All information relating to Client that is known to be confidential or proprietary, or which is clearly marked as such, will be held in confidence by Provider and will not be disclosed or used by Provider except to the extent that such disclosure or use is reasonably necessary to the performance of Provider's Work.

B. All information relating to Provider that is known to be confidential or proprietary, or which is clearly marked as such, will be held in confidence by Client and will not be disclosed or used by Client except to the extent that such disclosure or use is reasonably necessary to the performance of Client's duties and obligations under this Agreement.

C. These obligations of confidentiality will extend for a period of 12 months after the termination of this agreement, but will not apply with respect to information that is independently developed by the parties, lawfully becomes a part of the public domain, or of which the parties gained knowledge or possession free of any confidentiality obligation.

## **6. Obligations of Provider**

A. Provider will promptly notify Client of any material defects or malfunctions in the Software or related documentation that it learns from any source.

B. Provider will, from time to time, supply Client with copies of the Software and relevant documentation revised to reflect significant updates and enhancements to the software made by Provider, if any, during the period of this Agreement. Such enhancements may include, without limitation, modifications to the Software that increase its speed, efficiency, and/or ease of operation. Provider will supply 1 copy of any of these updates and/or enhancements without additional charge. Provider will give reasonable assistance to Client in installing and operating any new release or enhancement, provided, however, that if such assistance is to be provided at Client's facility, such services will be charged at Provider's then current consulting rate.

C. Within a reasonable time after being given written notice thereof, Provider will correct inherent material errors in the Software that are not caused by Client's misuse, improper use, alteration or damage of the Software.

D. Provider will supply Client with reasonable means of accessing modifications and enhancements to the Software, including diskette, compact disk, or through network download. Provider is not obligated under this Agreement to perform on-site installation of modifications and enhancements.

## **7. Warranty and Disclaimer**

Provider warrants the Work will be performed in a workmanlike manner, and in conformity with generally prevailing industry standards. Client must report any material deficiencies in Provider's Work to Provider in writing within ninety (90) days of Client's receipt of the Work. Client's exclusive remedy for the breach of the above warranty will be the re-

performance of Provider's Work within a commercially reasonable time. THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE ON OR PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT. PROVIDER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES.

#### **8. Limitation of Liability, Indemnification**

Neither party will be liable to the other for special, indirect or consequential damages incurred or suffered by the other arising as a result of or related to the performance of Provider's Work, whether in contract, tort, or otherwise, even if the other has been advised of the possibility of such loss or damages. Client will indemnify and hold Provider harmless against any claims incurred by Provider arising out of or in conjunction with Client's breach of this Agreement, as well as all reasonable costs, expenses and attorneys' fees incurred therein. Provider's total liability under this Agreement with respect to the Work, regardless of cause or theory of recovery, will not exceed the total amount of fees paid by Client to Provider during the six (6) month period prior to the date the claim arises.

#### **9. Relation of Parties**

The performance by Provider of its duties and obligations under this Agreement will be that of an independent contractor, and nothing in this Agreement will create or imply an agency relationship between Provider and Client, nor will this Agreement be deemed to constitute a joint venture or partnership between the parties.

#### **10. Employee Solicitation/Hiring**

During the period of this Agreement and for twelve (12) months thereafter, neither party will directly or indirectly solicit or offer employment to or hire any employee, former employee, subcontractor, or former subcontractor of the other. The terms "former employee" and "former subcontractor" will include only those employees or subcontractors of either party who were employed or utilized by that party within six (6) months immediately prior to the alleged violation.

#### **11. Non-assignment**

Neither party will assign this Agreement, in whole or in part, without the prior written consent of the other party. This Agreement will inure to the benefit of, and be binding upon the parties hereto, together with their respective legal representatives, successors, and assigns, as permitted herein.

#### **12. Arbitration**

Any dispute arising under this Agreement will be subject to binding arbitration by a single Arbitrator with the American Arbitration Association (AAA), in accordance with its

relevant industry rules, if any. The parties agree that this Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Utah. The arbitration will be held in Utah. The Arbitrator will have the authority to grant injunctive relief and specific performance to enforce the terms of this Agreement. Judgment on any award rendered by the Arbitrator may be entered in any Court of competent jurisdiction.

**13. Attorneys' Fees**

If any litigation or arbitration is necessary to enforce the terms of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs.

**14. Severability**

If any term of this Agreement is found to be unenforceable or contrary to law, it will be modified to the least extent necessary to make it enforceable, and the remaining portions of this Agreement will remain in full force and effect.

**15. Force Majeure**

Neither party will be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by events or circumstances beyond the delayed party's reasonable control.

**16. No Waiver**

The waiver by any party of any breach of covenant will not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing, and signed by the party waiving its rights. This Agreement may be modified only by a written instrument executed by authorized representatives of the parties hereto.

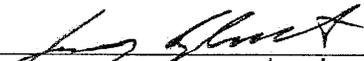
**17. Entire Agreement**

This Agreement together with any attachments referred to herein constitute the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, negotiations, representations or communications relating to the subject matter. Both parties acknowledge that they have not been induced to enter into this Agreement by any representations or promises not specifically stated herein.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

Provider: ACCELERANT GROUP,  
INCORPORATED

Client CITY OF BLACK DIAMOND

By:   
Title: Chief Architect  
Name: Jeremy Sylvester  
Date: 11/21/2014

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

## EXHIBIT A: STATEMENT OF WORK

### TABLE OF CONTENTS

	Preamble
1.0	Project Background
2.0	Scope
3.0	Technical Support
4.0	Price and Payment
5.0	Invoices
6.0	Payment

### PREAMBLE

This Statement of Work accompanies an Agreement that has been executed by the parties. All statements of fact contained in this Statement of Work are subject to the terms and conditions set forth in such Agreement. The terms and conditions set forth in the Agreement control in the event of any inconsistency between such terms and conditions and the matters set forth in this Statement of Work.

#### 1.0 Project Background

This support and maintenance applies to the Tiburon Interface that is currently installed on the City of Black Diamond's Spillman server.

#### 2.0 Scope

Scope is limited to software maintenance and support of the Tiburon Interface.

#### 3.0 Technical Support

**3.1 Standard Support** – Standard Support hours are 8 a.m. to 5 p.m. Mountain Standard Time, Monday through Friday. Technical Support Phone number: 801.938.4800 email: support@accelerantgroup.com.

**3.2 After Hours Support** – After hours support is billed additionally at \$150.00/hour. After hours includes any time beyond the designated Standard Support hours, including standard US Holidays.

**4.0 Price and Payment**

Standard Support will be billed annually at a price of:

<b>Interface</b>	<b>Annual Maintenance Amount</b>
<b>Tiburon Interface</b>	<b>\$1200</b>

**5.0 Invoices**

An invoice will be sent to Client 30 days prior to the annual support contract renewal date. Notification of support increases will be included in the invoice if applicable.

**6.0 Payment**

Payment is due thirty days (30) days after the invoice Date. Client may not withhold any amounts due hereunder and Provider reserves the right to cease work without prejudice if amounts are not paid when due. Any late payment will be subject to any costs of collection (including reasonable legal fees) and will bear interest at the rate of one (1) percent per month or fraction thereof until paid.