



CITY OF BLACK DIAMOND
April 7, 2016 Regular Business Meeting Agenda
25510 Lawson St., Black Diamond, Washington

7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Presentation – Retired Planning Commission Members Sheri Roth, Jim Kuzaro and Gary Davis Mayor Benson

Presentation – Unfinished House in Eagle Creek Development Terri Yankovich

CONSENT AGENDA:

- 1) **Claim Checks** - March 17, 2016 - No. 43280 through No.43321 and EFTs in the amount of \$177,543.18
April 7, 2016 – No. 43322 through No. 43374 and EFTs in the amount of \$121,481.67
- 2) **Minutes** – Council Meeting of January 21, 2016, Special Joint Meeting Council/Planning Commission of March 8, 2016

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. 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: None

UNFINISHED BUSINESS:

- 3) **AB16-022A** – Resolution Authorizing an Agreement with ReturnMeds Chief Kiblinger
- 4) **AB16-023A** – Resolution Authorizing an Agreement with PumpTech, Inc. Mr. Boettcher
- 5) **AB16-024A** – Resolution Authorizing an Agreement with BHC for Building Services Ms. Kincaid

EXECUTIVE SESSION: Executive session as authorized by RCW 42.30.140(4) to discuss collective bargaining and to also discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i). Possible final action may follow the executive session.

NEW BUSINESS:

- 6) **AB16-025** – Resolution Approving Collective Bargaining Agreement with Public Works Unit Mr. Altman
- 7) **AB16-026** – Resolution Approving an Agreement with DKS Ms. Kincaid
- 8) **AB16-027** – Resolution Approving Final Plat for Diamond Ridge Ms. Kincaid

DEPARTMENT REPORTS:

MAYOR'S REPORT:

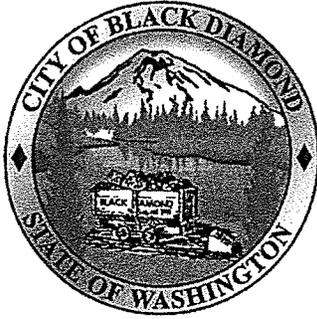
COUNCIL REPORTS:

- Councilmember Deady
- Councilmember Morgan
- Councilmember Edelman
- Councilmember Weber
- Councilmember Pepper

ATTORNEY REPORT:

PUBLIC COMMENTS:

ADJOURNMENT:

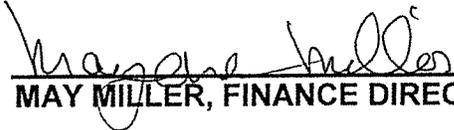


CERTIFICATION

Date: March 17, 2016

Check No.'s/EFT	Batch Name	Amount
43280-43281	Pre-Council Mar-2nd Council 03/17/16	\$ 34,036.19
43282-43321	Mar-2nd Council-03/17/16	\$ 134,314.57
EFT/ACH Payments	March-Month End Chks-03/31/16	\$ 9,192.42
	Total Vouchers	\$ 177,543.18

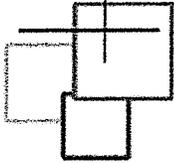
I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY, THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED AND OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF BLACK DIAMOND, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.



 MAY MILLER, FINANCE DIRECTOR

COUNCILMEMBERS

Voucher Directory



Vendor	Number	Reference	Account Number	Description	Amount
ADT Security Services (PA)	43282	022316	10514885	2016 - March - 2nd Council	
			March 1 to May 31, 2016 Services		
			001-000-254-518-20-49-00	Facilities Security	\$162.17
		Total 022316	10514885		\$162.17
		022316	202512470		
			March 12 to April 11, 2016 Services		
			001-000-248-518-20-49-02	MDRT Bldg Security Costs	\$19.43
			001-000-254-518-20-49-00	Facilities Security	\$29.15
		Total 022316	202512470		\$48.58
					\$210.75
					\$210.75
Total 43282					
Total ADT Security Services (PA)					
AHBL, Inc.	43283	97231		2016 - March - 2nd Council	
			December 26, 2015 to January 25, 2016		
			001-000-240-558-60-41-06	Prof Svs-Gen Gvt Planner	\$6,300.00
		Total 97231			\$6,300.00
		97241			
			December 26, 2015 to January 25, 2016		
			310-000-025-558-60-41-00	Comp Plan Update-Prof Svs	\$560.00
		Total 97241			\$560.00
					\$6,860.00
					\$6,860.00
Total 43283					
Total AHBL, Inc.					
American Planning Assoc.	43284	180852-1613		2016 - March - 2nd Council	
			001-000-240-558-60-49-02	Membership	\$483.00
				Annual Membership-Kincaid	\$483.00
		Total 180852-1613			\$483.00
					\$483.00
Total 43284					
Total American Planning Assoc.					

Vendor Number Reference Account Number Description Amount

Black Diamond Auto Parts 43285

408791 2016 - March - 2nd Council

February Purchase
 001-000-270-576-80-48-03 Vehicle Mtc. & Repair \$8.60
 PW Utilities-Oil Filters, Brass Fittings
 001-000-280-536-20-48-03 Vehicle Maintenance & Repair \$4.30
 PW Utilities-Oil Filters, Brass Fittings
 101-000-000-543-33-48-03 Street Share-Vehicle & Eq Mtc Costs \$47.30
 PW Utilities-Oil Filters, Brass Fittings
 401-000-000-534-80-48-03 Vehicle Maintenance \$51.59
 407000000535804804
 407-000-000-535-80-48-04 Vehicle Maintenance \$51.59
 PW Utilities-Oil Filters, Brass Fittings
 410-000-000-531-10-48-04 Vehicle Maintenance & Repair \$51.59
 PW Utilities-Oil Filters, Brass Fittings
 Total 408791 \$214.97
 408831

February Purchase
 001-000-210-521-10-48-01 Vehicle Maintenance & Repair \$8.68
 Police-Bulb for Police Vehicle
 Total 408831 \$8.68

Total 43285 \$223.65
 Total Black Diamond Auto Parts \$223.65
 Blumenthal Uniforms & Equipment

004878342 2016 - March - 2nd Council

001-000-210-521-10-31-04 Uniforms \$109.49
 Police-Cover Assault Pack
 Total 004878342 \$109.49

Total 43286 \$109.49
 Total Blumenthal Uniforms & Equipment \$109.49
 Brown's Automotive Inc. 43287

5607 2016 - March - 2nd Council

001-000-210-521-10-48-01 Vehicle Maintenance & Repair \$31.22
 Total 5607 \$31.22

Total 43287 \$31.22
 Total Brown's Automotive Inc. \$31.22
 Bud Clary Chevrolet 43280

5735 2016 - March - Pre-Council March 2nd Council

510-000-200-594-48-64-09 4-Wheel Drive Truck \$32,911.19

Vendor	Number	Reference	Account Number	Description	Amount
	001-000-212-521-50-47-02		Police-Water	Sewer	\$62.26
	001-000-212-521-50-47-03		Police-Sewer	Stormwater	\$80.00
	001-000-248-518-20-47-01		Police-Storm	MDRT BD Wtr, Swr, Storm	\$75.78
	001-000-254-518-20-47-00		City Hall - MDRT	Facilities-Utilities	\$113.66
	001-000-270-575-30-47-01		City Hall	Museum Water/Sewer/Storm	\$32.00
	001-000-270-575-30-47-01		Museum-Storm	Museum Water/Sewer/Storm	\$99.68
	001-000-270-575-51-47-01		Museum-Water, Sewer	Gym-Stormwater	\$32.00
	001-000-270-575-51-47-02		Gym-Water	Gym-Sewer	\$44.42
	001-000-270-575-51-47-03		Gym-Sewer	Gym-Water	\$62.26
	001-000-270-576-80-47-01		Gym-Storm	Water	\$35.63
	001-000-270-576-80-47-01		Eagle Creek-Water	Water	\$35.63
	001-000-270-576-80-47-01		Coal Car-Water	Water	\$3.31
	001-000-270-576-80-47-02		Parks Water	Sewer	\$4.98
	001-000-270-576-80-47-02		Parks	Stormwater	\$96.00
	001-000-270-576-80-47-03		Boat Launch-Storm	Stormwater	\$11.52
	001-000-280-536-20-47-01		Parks	Water	\$35.63
	001-000-280-536-20-47-01		Cemetery-Water	Water	\$0.83
	001-000-280-536-20-47-02		Cemetery	Sewer	\$1.25
	001-000-280-536-20-47-03		Cemetery	Stormwater	\$2.88
	001-000-530-522-10-47-01		Cemetery	Water	\$36.68
	001-000-530-522-10-47-02		Fire Dept-Water	Sewer	\$62.26
	001-000-530-522-10-47-02		Fire Dept-Sewer		

Vendor Number	Reference	Account Number	Description	Amount
		001-000-530-522-10-47-03	Stormwater	\$40.00
		101-000-000-543-31-47-01	Fire Dept-Storm Water	\$6.20
		101-000-000-543-31-47-01	Street Water	\$35.63
		101-000-000-543-31-47-02	Railroad Ave Irg. Sewer	\$9.34
		101-000-000-543-31-47-03	Street Stormwater	\$21.60
		401-000-000-534-80-47-01	Street Water	\$10.32
		401-000-000-534-80-47-02	Water Sewer	\$15.55
		401-000-000-534-80-47-03	Water Stormwater	\$36.00
		407-000-000-535-80-47-01	Water	\$10.34
		407-000-000-535-80-47-02	Sewer	\$15.57
		407-000-000-535-80-47-03	Sewer Stormwater	\$96.00
		407-000-000-535-80-47-03	Sewer Lagoon-Storm Stormwater	\$36.00
		410-000-000-531-10-47-01	Sewer Water	\$10.34
		410-000-000-531-10-47-02	Drainage	\$15.57
		410-000-000-531-10-47-03	Drainage Stormwater	\$36.00
			Total 022916 COBD	\$1,523.40
			Total 43290	\$1,523.40
			Total City of Black Diamond	\$1,523.40
			City of Covington	
			43291	
			68625	
			2016 - March - 2nd Council	
			January Services	\$801.00
			001-000-240-558-51-41-03	\$693.75
			Bldg Official-ILA-MV/Cov	\$1,494.75
			001-000-240-558-51-41-06	\$1,494.75
			Plans Examiner-ILA MV/Cov	\$1,494.75
			Total 68625	\$1,494.75
			Total 43291	
			Total City of Covington	

Vendor	Number	Reference	Account Number	Description	Amount
City of Enumclaw	43292			2016 - March - 2nd Council	
	04654			February Jail Services	\$600.00
			001-000-211-523-60-49-00	Jail Costs	\$600.00
				10 Days at 60.00 Per Day	\$600.00
	Total 04654				\$600.00
Total City of Enumclaw	Total 43292				
Comcast (34744)	43293			2016 - March - 2nd Council	
	022316 8498 34 014 0106156			Feb 26 to Mar 24, 2016 Service	\$95.00
			001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards	\$95.00
	Total 022316 8498 34 014 0106156				\$95.00
	022316 8498 34 014 0122286			Feb 22 to Mar 21, 2016 Service	\$221.31
			001-000-120-512-50-42-00	Telephone/DSL	\$221.31
	Total 022316 8498 34 014 0122286				\$221.31
	022616 8498 34 014 0125628			Mar 05 to Apr 4, 2016 Services	\$231.14
			001-000-254-518-20-42-00	Facilities-Communication	\$231.14
				City Hall Internet	\$231.14
	Total 022616 8498 34 014 0125628				\$231.14
Total Comcast (34744)	Total 43293				\$547.45
Dept of Licensing-Firearms Online				2016 - March - Month End Cks 3/31/16	\$547.45
	EFT Payment 3/8/2016 12:21:36 PM - 1				\$111.00
	BD59-64			February 24	\$111.00
			633-000-000-386-11-00-00	Gun Permits to DOL	\$111.00
	Total BD59-64				\$111.00
	BD65-71			February 26	\$132.00
			633-000-000-386-11-00-00	Gun Permits to DOL	\$132.00
	Total BD65-71				\$243.00
Total Dept of Licensing-Firearms Online	Total EFT Payment 3/8/2016 12:21:36 PM - 1				\$243.00
DKS Associates	43294			2016 - March - 2nd Council	\$243.00
	0059886			July 1, 2015 to August 28, 2015 Services	\$10,000.00
			310-000-025-558-60-41-00	Comp Plan Update-Prof Svcs	\$10,000.00

Vendor	Number	Reference	Account Number	Description	Amount
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Total 0059886
 Total DKS Associates
 First Bankcard

EFT Payment 3/8/2016 12:21:36 PM - 2
 021416 1117 Esping

Account Number	Description	Amount
CD Planning		
2016 - March - Month End Cks 3/31/16		
February Charges		
001-000-180-518-50-48-03	Vehicle Repairs & Maintenance	\$179.88
001-000-180-518-90-31-00	Filters Now, LLC-12 Heppa Air Filters for Central Services Buildings	\$25.16
001-000-180-518-90-31-00	Office Supplies City Hall	\$175.19
001-000-180-518-90-31-00	Harbor Frieght-Flashlight, Bit Set	\$59.83
001-000-180-518-90-31-00	Office Supplies City Hall	\$21.89
001-000-181-518-30-31-00	Guitar Center-Recorder	\$87.59
001-000-181-518-30-31-04	Office & Operating Supplies	\$0.49
001-000-181-518-30-31-04	VF Outlet-Facilities Unifrom	\$1.29
001-000-181-518-30-31-04	Uniforms	\$9.10
001-000-181-518-30-31-04	Harbor Frieght-Facilities Uniform	\$4.29
001-000-270-576-80-31-01	Road Runner Sports-Facilites Uniform	\$4.71
001-000-270-576-80-31-01	Parks Office Supplies	\$0.00
001-000-270-576-80-31-01	Harbor Frieght-Tools	\$2.28
001-000-270-576-80-31-01	Parks Office Supplies	\$1.07
001-000-270-576-80-31-01	Harbor Frieght-Tools	\$0.12
001-000-270-576-80-31-01	Parks Office Supplies	\$1.18
001-000-270-576-80-31-01	Northern Safety-First Aid Supplies	
001-000-270-576-80-31-01	Parks Office Supplies	
001-000-270-576-80-31-01	Northern Safety-First Aid Supplies	
001-000-270-576-80-31-01	Parks Office Supplies	
001-000-270-576-80-31-01	Harbor Frieght-Lifting Cling, Hook/Loop Cable, Doorbell, Tape Measure	
001-000-270-576-80-31-01	Parks Office Supplies	
001-000-280-536-20-31-00	Northern Safety-First Aid Supplies	
001-000-280-536-20-31-00	Cemetery Office Supplies	
001-000-280-536-20-31-00	Northern Safety-First Aid Supplies	
001-000-280-536-20-31-00	Cemetery Office Supplies	
001-000-280-536-20-31-00	Harbor Frieght-Lifting Cling, Hook/Loop Cable, Doorbell, Tape Measure	
001-000-280-536-20-31-00	Cemetery Office Supplies	
001-000-280-536-20-31-00	Harbor Frieght-Tools	
001-000-280-536-20-31-00	Cemetery Office Supplies	
001-000-280-536-20-31-00	Harbor Frieght-First Aid Supplies	

Vendor	Number	Reference	Account Number	Description	Amount
	001-000-280-536-20-31-00			Cemetery Office Supplies	\$0.32
			Harbor Freight-Tools		
	101-000-000-542-90-31-00			Office Supplies	\$8.04
			Harbor Frieght-Lifting Ciling, Hook/Loop Cable, Doorbell, Tape Measure		
	101-000-000-542-90-31-00			Office Supplies	\$17.08
			Northern Safety-First Aid Supplies		
	101-000-000-542-90-31-00			Office Supplies	\$8.83
			Harbor Frieght-First Aid Supplies		
	101-000-000-543-33-48-03			Street Share-Vehicle & Eq Mtc Costs	\$17.56
			Harbor Frieght-Car Wash Cleaner		
	101-000-000-543-33-48-03			Sireet Share-Vehicle & Eq Mtc Costs	\$0.92
			Harbor Freight-Tools		
	101-000-000-543-33-48-03			Street Share-Vehicle & Eq Mtc Costs	\$2.42
			Harbor Freight-Tools		
	310-000-002-594-18-62-00			Council Chamber & Police & Court Bldg	\$34.67
			Amazon.com-Audio Cords		
	401-000-000-534-80-31-01			Operating Supplies	\$13.40
			Harbor Frieght-Lifting Ciling, Hook/Loop Cable, Doorbell, Tape Measure		
	401-000-000-534-80-31-01			Operating Supplies	\$1.52
			Harbor Freight-Tools		
	401-000-000-534-80-31-01			Operating Supplies	\$14.72
			Harbor Frieght-First Aid Supplies		
	401-000-000-534-80-31-01			Operating Supplies	\$4.04
			Harbor Freight-Tools		
	401-000-000-534-80-31-01			Operating Supplies	\$28.45
			Northern Safety-First Aid Supplies		
	407-000-000-535-80-31-01			Operating Supplies	\$1.53
			Harbor Freight-Tools		
	407-000-000-535-80-31-01			Operating Supplies	\$14.72
			Harbor Frieght-First Aid Supplies		
	407-000-000-535-80-31-01			Operating Supplies	\$28.45
			Northern Safety-First Aid Supplies		
	407-000-000-535-80-31-01			Operating Supplies	\$4.04
			Harbor Freight-Tools		
	407-000-000-535-80-31-01			Operating Supplies	\$13.40
			Harbor Frieght-Lifting Ciling, Hook/Loop Cable, Doorbell, Tape Measure		
	410-000-000-531-10-31-01			Stormwater Operating Supplies	\$4.04
			Harbor Freight-Tools		
	410-000-000-531-10-31-01			Stormwater Operating Supplies	\$14.72
			Harbor Frieght-First Aid Supplies		
	410-000-000-531-10-31-01			Stormwater Operating Supplies	\$28.45
			Northern Safety-First Aid Supplies		
	410-000-000-531-10-31-01			Stormwater Operating Supplies	\$1.53
			Harbor Freight-Tools		

Vendor	Reference	Account Number	Description	Amount
		410-000-000-531-10-31-01	Stormwater Operating Supplies	\$13.40
			Harbor Frieght-Lifting Cling, Hook/Loop Cable, Doorbell, Tape Measure	
		510-000-300-594-21-31-00	Surplus Costs Police	\$49.42
			Harbor Freight-Cleaner, Zip Ties, Brake Parts Cleaner	
	Total 021416 1117 Esping			\$899.74
	021416 1875 Kincaid			
		February Charges		
		001-000-240-558-51-43-01	Lodging, Meals & Mileage	\$28.56
			Black Diamond Bakery-CD-Refreshments for Dept of Commerce Meeting	
		001-000-240-558-51-43-01	Lodging, Meals & Mileage	\$14.09
			Benjarong Thai-CD-Meal for Conference Meeting-Kincaid	
		001-000-240-558-60-49-00	Miscellaneous	\$14.08
			Benjarong Thai-CD-Meal for Conference Meeting-Obrecht, and Hearing Examiner	
	Total 021416 1875 Kincaid			\$56.73
	021416 2292 Kiplinger			
		February Charges		
		001-000-180-518-10-49-05	Recognition Awards	\$50.00
			Gino's Bistro--Police-Gift Card for Award	
		001-000-210-521-10-31-00	Operating Supplies	\$38.00
			Cellular Connection-Police-Car Phone Charger	
		001-000-210-521-10-49-01	Training	\$77.25
			WSU Conf Mgmt-Police-FBI-NA Training	
		001-000-216-521-10-31-01	Costs Assoc w/Police Recognition	\$6.94
			Fred Meyer-Police-Frame for Award	
	Total 021416 2292 Kiplinger			\$172.19
	021416 4013 Metcalf			
		February Charges		
		001-000-120-512-50-42-03	Postage	\$49.00
			USPS Black Diamond-Postage	
		001-000-120-512-50-42-03	Postage	\$3.72
			USPS Black Diamond-Postage	
	Total 021416 4013 Metcalf			\$52.72
	021416 4138 Lynch			
		February Charges		
		001-000-216-521-10-43-00	Lodging, Meals & Mileage	\$5.00
			Seattle Park-Police-Parking in Seattle	
	Total 021416 4138 Lynch			\$5.00
	021416 4360 Martinez			
		February Charges		
		001-000-110-511-60-41-00	Professional Services	\$45.00
			Paypal-Council-SCA Networking Dinner- Deady	
		001-000-110-511-60-43-00	Lodging, Meals and Mileage	\$45.00
			Paypal-Council-SCA Networking Dinner-Edelman	

Vendor	Number	Reference	Account Number	Description	Amount
			001-000-214-521-20-42-03	Police Postage	\$13.60
			USPS Black Diamond-Postage		
			001-000-214-521-20-42-03	Police Postage	\$7.43
			USPS Black Diamond-Postage		
			001-000-214-521-20-42-03	Police Postage	\$18.05
			USPS Black Diamond-Postage		
			001-000-214-521-20-42-03	Police Postage	\$51.79
			USPS Black Diamond-Postage		
			Total 021416 9074 McGraw		
			021416 9871 Del Santo		
			February Charges		
			402-000-000-594-34-63-12	70K Working Capital -WSFFA other costs	\$102.49
			The Home Depot-MPA Testing of Air Shaft		
			Total 021416 9871 Del Santo		
			021416 9902 Ross		\$102.49
			February Charges		
			001-000-210-521-10-31-04	Uniforms	\$20.00
			SQ*Calibre Press-Police-Book BLEA		
			Total 021416 9902 Ross		\$20.00
			Total EFT Payment 3/8/2016 12:21:36 PM - 2		\$3,747.68
			Total First Bankcard		\$3,747.68
			Good To Go!		
			43295		
			TB-161277851	2016 - March - 2nd Council	\$2.75
				Lodging, Meals & Mileage VRF	
			001-000-215-521-10-43-00	Police-Toll Charge-Chief Kiplinger	\$2.75
			Total TB-161277851		\$2.75
			Total 43295		\$2.75
			Total Good To Go!		\$2.75
			Greater Maple Valley-Black Diamond Chamber of Commerce		
			43296		
			9435	2016 - March - 2nd Council	\$40.00
			Chamber Luncheon		
			001-000-110-511-60-43-00	Lodging, Meals and Mileage	\$40.00
			Council-Edelman, Deady		
			001-000-246-558-70-43-00	Lodging, Meals & Mileage	\$20.00
			MDRT-Williamson		
			Total 9435		\$60.00
			Total 43296		\$60.00
			Total Greater Maple Valley-Black Diamond Chamber of Commerce		\$60.00
			King Co Radio Comm Services		\$60.00
			43297		
			10746	2016 - March - 2nd Council	\$1,326.01
			February Services		
			001-000-214-521-20-41-03	K/C 800 Mhz Radio Costs	\$1,326.01

Vendor	Number	Reference	Account Number	Description	Amount
		Total 10746		Police	
Total 43297					\$1,326.01
Total King Co Radio Comm Services					\$1,326.01
KING COUNTY FINANCE					\$1,326.01
43298					
	30012375			2016 - March - 2nd Council	
				March Services	
			407-000-000-535-80-41-04	Metro Sewer Charges	\$43,963.38
					\$43,963.38
					\$43,963.38
Total 43298					\$43,963.38
Total KING COUNTY FINANCE					
King County Finance I-Net					
43299					
	11004356			2016 - March - 2nd Council	
				February Services	
			001-000-214-521-20-42-01	Police Comm KC I-Net	\$375.00
					\$375.00
					\$375.00
Total 43299					\$375.00
Total King County Finance I-Net					
KING COUNTY TREASURER					
43300					
	013116 KCT			2016 - March - 2nd Council	
				January Court	
			633-000-000-586-00-00-01	Treasurers Trust Court	\$134.81
					\$134.81
Total 013116 KCT					\$134.81
022916 KCT					
				February Court	
			633-000-000-586-00-00-01	Treasurers Trust Court	\$122.79
					\$122.79
					\$257.60
Total 022916 KCT					\$257.60
Total 43300					\$400.00
Total KING COUNTY TREASURER					
Lab/Cor, Inc.					
43301					
	160131R01			2016 - March - 2nd Council	
				402-000-003-594-34-63-06	
				Public Works	
				Springs/Task 3- Engineering	\$400.00
					\$400.00
					\$400.00
Total 43301					\$400.00
Total Lab/Cor, Inc.					\$400.00

Vendor	Number	Reference	Account Number	Description	Amount
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Legend Data Systems, Inc.	43302	110374	2016 - March - 2nd Council		
			001-000-210-521-10-31-04	Uniforms	\$25.52
				Police-Photo ID Printed Cards	\$25.52
					\$25.52

Total 43302
 Total Legend Data Systems, Inc.
 Modular Space Corp
 43303

		501510358	2016 - March - 2nd Council		
			March Rental		
			001-000-248-518-20-45-01	MDRT-Bldg Rental-Modspace	\$1,958.06
					\$1,958.06

		501510368	2016 - March - 2nd Council		
			March Rental		
			001-000-254-518-20-45-01	Facilities-Bldg Rental/Modspace	\$3,454.57
					\$3,454.57
					\$5,412.63
					\$5,412.63

Total 43303
 Total Modular Space Corp
 Morris Law PC
 43304

		022916 ML	2016 - March - 2nd Council		
			February Services		
			001-000-150-515-30-41-01	Legal Services-General Govt	\$2,227.50
			001-000-150-515-30-41-08	Legal Svcs-Union Contracts	\$550.00
			001-000-150-515-30-41-17	Legal Costs-Public Disclosure	\$154.00
			001-000-257-558-70-41-00	MDRT Legal Services	\$374.00
			101-000-000-543-30-41-05	Legal Costs	\$495.00
			320-000-023-595-30-63-01	Jones Lake Proj Mgmt	\$330.00
			401-000-000-534-80-41-04	Legal Svcs	\$742.50
			402-000-000-594-34-63-11	70K Working Capital-Legal Costs	\$1,694.00
			407-000-000-535-80-41-09	Legal Costs	\$742.50
			410-000-000-531-10-41-01	Legal Costs	\$742.50
					\$8,052.00
					\$8,052.00
					\$8,052.00

Total 022916 ML
 Total 43304
 Total Morris Law PC

Vendor	Number	Reference	Account Number	Description	Amount
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O'Brien, Barton, & Hopkins, PLLP	43305		2016 - March - 2nd Council		
	49628				

	Total 43305				
Total O'Brien, Barton, & Hopkins, PLLP					\$2,500.00
Office Products Nationwide	43306				\$2,500.00
	829176-0		2016 - March - 2nd Council		\$2,500.00

	Total 43306				
Total Office Products Nationwide					\$151.21
Platt Electric Supply	43307				\$151.21
	1820816		2016 - March - 2nd Council		\$151.21

	Total 43307				
Total Platt Electric Supply					\$0.85
PMI Truck Bodies, Inc	43308				\$0.42
	15708		2016 - March - 2nd Council		\$4.62

	Total 43308				
Total Platt Electric Supply					\$5.04
PMI Truck Bodies, Inc	43308				\$5.04
	1820816		2016 - March - 2nd Council		\$21.01
	15708		2016 - March - 2nd Council		\$21.01

	Total 43308				
Total Platt Electric Supply					\$5.47
PMI Truck Bodies, Inc	43308				\$2.74
	15708		2016 - March - 2nd Council		\$30.08

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

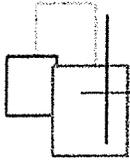
	Total 43308				
Total Platt Electric Supply					\$32.82
PMI Truck Bodies, Inc	43308				\$32.82
	1820816		2016 - March - 2nd Council		\$32.82

Vendor	Number	Reference	Account Number	Description	Amount
		Total 15708		PW Maint-Amber Beacon Light	
Total 43308					\$136.75
Total PMI Truck Bodies, Inc					\$136.75
RH2 Engineering Inc.					\$136.75
43309		64545		2016 - March - 2nd Council	
				February Services	
			402-000-003-594-34-63-06	Springs/Task 3- Engineering	\$712.28
				PW-On Call Services	
		Total 64545			\$712.28
Total 43309					\$712.28
Total RH2 Engineering Inc.					\$712.28
Severson's Building Maint					\$712.28
43310		581271		2016 - March - 2nd Council	
				February Services	
			001-000-254-518-20-49-01	Facilities Building Custodial	\$150.00
				Gym	
		Total 581271			\$150.00
		581272			
				February Services	
			001-000-248-518-20-49-01	MDRT Bldg Custodial Costs	\$540.00
			001-000-254-518-20-49-01	Facilities Building Custodial	\$360.00
		Total 581272			\$900.00
		581273			
				February Services	
			001-000-212-521-50-41-03	Police Custodial Cost	\$500.00
		Total 581273			\$500.00
					\$1,550.00
					\$1,550.00
Total 43310					
Total Severson's Building Maint					
Shred-It USA					
43311		9409247598		2016 - March - 2nd Council	
				February Services	
			001-000-120-512-50-49-04	Shredding Services	\$14.74
				Court	
			001-000-180-518-90-49-04	Shredding Services	\$14.75
				City Hall	
			001-000-210-521-10-49-05	Shredding Services	\$14.74

Vendor	Number	Reference	Account Number	Description	Amount
		Total 9409247598			\$44.23
		9409619009		Police	
			February Services		
			001-000-120-512-50-49-04	Shredding Services	\$14.74
			001-000-180-518-90-49-04	Shredding Services	\$14.75
			001-000-210-521-10-49-05	Shredding Services	\$14.74
		Total 9409619009			\$44.23
					\$88.46
					\$88.46
Total Shred-it USA	43311				
Spillman Technologies, Inc	43312				
		32093		2016 - March - 2nd Council	
			Annual Maint Mar 1, 2016 to Feb 28, 2017		
			001-000-216-521-10-49-07	Spillman Records Maintenance	\$12,662.00
				Police	
		Total 32093			\$12,662.00
Total Spillman Technologies, Inc	43312				\$12,662.00
Summit Law Group	43313				\$12,662.00
		77819		2016 - March - 2nd Council	
			January Services		
			001-000-150-515-30-41-01	Legal Services-General Govt	\$177.84
			101-000-000-543-30-41-05	Legal Costs	\$37.05
			401-000-000-534-80-41-04	Legal Svcs	\$51.87
			407-000-000-535-80-41-09	Legal Costs	\$51.87
			410-000-000-531-10-41-01	Legal Costs	\$51.87
				General Labor	
		Total 77819			\$370.50
		77820			
			January Services		
			101-000-000-543-30-41-05	Legal Costs	\$153.11
				Teamsters	
			401-000-000-534-80-41-04	Legal Svcs	\$153.13
				Teamsters	
			407-000-000-535-80-41-09	Legal Costs	\$153.13
				Teamsters	

Vendor	Number	Reference	Account Number	Description	Amount
			410-000-000-531-10-41-01	Legal Costs	\$153.13
			Teamsters		
	Total 77820				
Total Summit Law Group	Total 43313				\$612.50
U.S. Postal Service (Black Diamond)					\$983.00
EFT Payment 3/8/2016 12:21:36 PM - 3			2016 - March - Month End Cks 3/31/16		\$983.00
	030716 USPSBD				
			February Bulk Mailing		
			401-000-000-534-80-42-01	Postage	\$172.15
			407-000-000-535-80-42-01	Postage	\$172.15
			410-000-000-531-10-42-01	Postage	\$344.30
	Total 030716 USPSBD				\$688.60
Total EFT Payment 3/8/2016 12:21:36 PM - 3					\$688.60
Total U.S. Postal Service (Black Diamond)					\$688.60
U.S. Postal Service (CMRS-FP)					\$688.60
EFT Payment 3/8/2016 12:21:36 PM - 4			2016 - March - Month End Cks 3/31/16		
	021816 USPCMRSP				
			February 18 to March 1		
			001-000-180-518-90-42-00	Postage	\$200.00
Total 021816 USPCMRSP					\$200.00
Total EFT Payment 3/8/2016 12:21:36 PM - 4					\$200.00
Total U.S. Postal Service (CMRS-FP)					\$200.00
US Bank Equipment Finance					\$200.00
43314			2016 - March - 2nd Council		
	299051342				
			Feb 20 to Mar 20, 2016 Services		
			001-000-210-521-10-45-00	Lease Payments - US Bank/Copier	\$193.03
			001-000-248-594-18-64-00	MDRT-Computer/Printer	\$193.03
			001-000-254-518-20-45-04	Facilities Copier Maint Lease	\$1,378.75
Total 299051342					\$1,764.81
Total 43314					\$1,764.81
Total US Bank Equipment Finance					\$1,764.81
Valley Communications					\$1,764.81
43315			2016 - March - 2nd Council		
	0016430				
			January Services		
			001-000-214-521-20-41-00	Valley Comm - Dispatch Service	\$19,816.88
			Police		
Total 0016430					\$19,816.88
Total 43315					\$19,816.88
Total Valley Communications					\$19,816.88

Vendor	Number	Reference	Account Number	Description	Amount
VenTek International	43316	46119	2016 - March - 2nd Council		
			001-000-270-576-80-41-02	Venue Pay Station	\$90.00
				Monthly Subscription	\$90.00
					\$90.00
					\$90.00
Total VenTek International	Total 43316	Total 46119			
Vision Municipal Solutions, LLC	43317	030816 VMS	2016 - March - 2nd Council		
			401-000-000-534-80-49-03	Training	\$31.25
				Deputy City Clerk-MJ Bohn	
			407-000-000-535-80-49-02	Training	\$31.25
				Deputy City Clerk-MJ Bohn	
			410-000-000-531-10-49-02	Training	\$62.50
				Deputy City Clerk-MJ Bohn	
					\$125.00
					\$125.00
					\$125.00
Total Vision Municipal Solutions, LLC	Total 43317	Total 030816 VMS			
Voice of The Valley	43318	17895	2016 - March - 2nd Council		
			001-000-240-558-60-41-75	Advertising	\$228.00
				CD Planning-SEPA Notice	
					\$228.00
					\$228.00
					\$228.00
Total Voice of The Valley	Total 43318	Total 17895			
Wa State Criminal Justice	43319	210025866	2016 - March - 2nd Council		
			001-000-216-521-10-49-00	Proficiency Training Program	\$1,100.00
				Police-Training-Martinez	
					\$1,100.00
					\$1,100.00
					\$1,100.00
Total Wa State Criminal Justice	Total 43319	Total 210025866			
Washington State Department of Revenue			2016 - March - Month End Cks 3/31/16		
					\$15.47
					\$5.31
					\$109.72
					\$0.78



Register

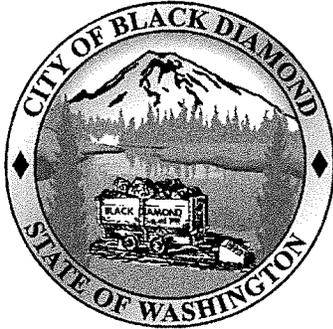
Fiscal: 2016

Deposit Period: 2016 - March

Check Period: 2016 - March - Pre-Council March 2nd Council, 2016 - March - Month End Cks 3/31/16, 2016 - March - 2nd Council

Number	Name	Check Date	Amount
Columbia Bank	390562401		
Check			
<u>43280</u>	Bud Clary Chevrolet	3/4/2016	\$32,911.19
<u>43281</u>	Washington State University-Conference Management	3/4/2016	\$1,125.00
<u>43282</u>	ADT Security Services (PA)	3/17/2016	\$210.75
<u>43283</u>	AHBL, Inc.	3/17/2016	\$6,860.00
<u>43284</u>	American Planning Assoc.	3/17/2016	\$483.00
<u>43285</u>	Black Diamond Auto Parts	3/17/2016	\$223.65
<u>43286</u>	Blumenthal Uniforms & Equipment	3/17/2016	\$109.49
<u>43287</u>	Brown's Automotive Inc.	3/17/2016	\$31.22
<u>43288</u>	CenturyLink (AZ)	3/17/2016	\$29.57
<u>43289</u>	CenturyLink (WA)	3/17/2016	\$917.25
<u>43290</u>	City of Black Diamond	3/17/2016	\$1,523.40
<u>43291</u>	City of Covington	3/17/2016	\$1,494.75
<u>43292</u>	City of Enumclaw	3/17/2016	\$600.00
<u>43293</u>	Comcast (34744)	3/17/2016	\$547.45
<u>43294</u>	DKS Associates	3/17/2016	\$10,000.00
<u>43295</u>	Good To Go!	3/17/2016	\$2.75
<u>43296</u>	Greater Maple Valley-Black Diamond Chamber of Commerce	3/17/2016	\$60.00
<u>43297</u>	King Co Radio Comm Services	3/17/2016	\$1,326.01
<u>43298</u>	KING COUNTY FINANCE	3/17/2016	\$43,963.38
<u>43299</u>	King County Finance I-Net	3/17/2016	\$375.00
<u>43300</u>	KING COUNTY TREASURER	3/17/2016	\$257.60
<u>43301</u>	Lab/Cor, Inc.	3/17/2016	\$400.00
<u>43302</u>	Legend Data Systems, Inc.	3/17/2016	\$25.52
<u>43303</u>	Modular Space Corp	3/17/2016	\$5,412.63
<u>43304</u>	Morris Law PC	3/17/2016	\$8,052.00
<u>43305</u>	O'Brien, Barton, & Hopkins, PLLP	3/17/2016	\$2,500.00
<u>43306</u>	Office Products Nationwide	3/17/2016	\$151.21
<u>43307</u>	Platt Electric Supply	3/17/2016	\$21.01
<u>43308</u>	PMI Truck Bodies, Inc	3/17/2016	\$136.75
<u>43309</u>	RH2 Engineering Inc.	3/17/2016	\$712.28
<u>43310</u>	Severson's Building Maint	3/17/2016	\$1,550.00
<u>43311</u>	Shred-It USA	3/17/2016	\$88.46
<u>43312</u>	Spillman Technologies, Inc	3/17/2016	\$12,662.00
<u>43313</u>	Summit Law Group	3/17/2016	\$983.00
<u>43314</u>	US Bank Equipment Finance	3/17/2016	\$1,764.81
<u>43315</u>	Valley Communications	3/17/2016	\$19,816.88

<u>43316</u>	VenTek International	3/17/2016	\$90.00
<u>43317</u>	Vision Municipal Solutions, LLC	3/17/2016	\$125.00
<u>43318</u>	Voice of The Valley	3/17/2016	\$228.00
<u>43319</u>	Wa State Criminal Justice	3/17/2016	\$1,100.00
<u>43320</u>	Washington State Treasurer	3/17/2016	\$9,404.75
<u>43321</u>	WSEMA	3/17/2016	\$75.00
<u>EFT Payment 3/8/2016</u>	Dept of Licensing-Firearms Online	3/31/2016	\$243.00
<u>EFT Payment 3/8/2016</u>	First Bankcard	3/31/2016	\$3,747.68
<u>EFT Payment 3/8/2016</u>	U.S. Postal Service (Black Diamond)	3/31/2016	\$688.60
<u>EFT Payment 3/8/2016</u>	U.S. Postal Service (CMRS-FP)	3/31/2016	\$200.00
<u>EFT Payment 3/8/2016</u>	Washington State Department of Revenue	3/31/2016	\$4,313.14
		Total	\$177,543.18



CERTIFICATION

Date: April 07, 2016

Check No.'s/EFT	Batch Name	Amount
43322-43324	Early Release Chks Apr-1st Council 04/07/16	\$ 2,131.64
43325-43374	Apr-1st Council-04/07/16	\$ 119,350.03
	Total Vouchers	\$ 121,481.67

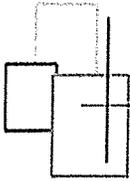
I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY, THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED AND OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF BLACK DIAMOND, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

Mayene Miller
MAY MILLER, FINANCE DIRECTOR

3-29-2016

COUNCILMEMBERS

_____	_____
_____	_____
_____	_____



Register

Fiscal: 2016

Deposit Period: 2016 - April

Check Period: 2016 - April - Pre-Council April 1st Council, 2016 - April - 1st Council

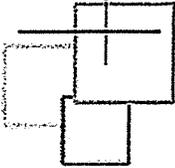
Number	Name	Print Date	Amount
Columbia Bank	390562401		
Check			
<u>43322</u>	Home Depot Credit Service	3/11/2016	\$458.55
<u>43323</u>	Verizon Wireless	3/14/2016	\$1,303.09
<u>43324</u>	King County Recorders Office	3/14/2016	\$370.00
<u>43325</u>	ADT Security Services (PA)	4/7/2016	\$163.17
<u>43326</u>	Beatriz Jordan	4/7/2016	\$139.96
<u>43327</u>	Blumenthal Uniforms & Equipment	4/7/2016	\$123.68
<u>43328</u>	Brown's Automotive Inc.	4/7/2016	\$113.91
<u>43329</u>	CDW Government, Inc	4/7/2016	\$371.81
<u>43330</u>	CenturyLink (AZ)	4/7/2016	\$29.58
<u>43331</u>	CenturyLink (WA)	4/7/2016	\$1,373.33
<u>43332</u>	CHS/Cenex	4/7/2016	\$2,142.88
<u>43333</u>	City of Black Diamond	4/7/2016	\$1,489.95
<u>43334</u>	City of Covington	4/7/2016	\$1,438.25
<u>43335</u>	City of Enumclaw	4/7/2016	\$60.00
<u>43336</u>	City of Maple Valley	4/7/2016	\$11,362.50
<u>43337</u>	City of Milton	4/7/2016	\$4,364.38
<u>43338</u>	Comcast (34227)	4/7/2016	\$316.31
<u>43339</u>	Comcast (34744)	4/7/2016	\$3.28
<u>43340</u>	Comcast (PA)	4/7/2016	\$395.21
<u>43341</u>	Datec Incorporated	4/7/2016	\$6,525.99
<u>43342</u>	Dept of Licensing	4/7/2016	\$125.00
<u>43343</u>	Granite Telecommunications	4/7/2016	\$42.79
<u>43344</u>	Hanging Gardens Nursery	4/7/2016	\$113.95
<u>43345</u>	Home Depot Credit Service	4/7/2016	\$96.06
<u>43346</u>	Honey Bucket/Northwest Cascade Inc.	4/7/2016	\$87.00
<u>43347</u>	Jeffery Rominger	4/7/2016	\$32.16
<u>43348</u>	Johnsons Home & Garden	4/7/2016	\$422.84
<u>43349</u>	Kara Murphy Richards	4/7/2016	\$2,000.00
<u>43350</u>	Law Offices of Susan Elizabeth Drummond, PLLC	4/7/2016	\$220.00
<u>43351</u>	Mark Hilfer	4/7/2016	\$305.65
<u>43352</u>	Melanie Thomas Dane	4/7/2016	\$2,000.00
<u>43353</u>	Office Products Nationwide	4/7/2016	\$579.64
<u>43354</u>	Olbrechts & Associates, PLLC	4/7/2016	\$614.68
<u>43355</u>	Parametrix, Inc.	4/7/2016	\$7,934.50

<u>43356</u>	Perteet Inc.	4/7/2016	\$1,420.00
<u>43357</u>	Puget Sound Energy	4/7/2016	\$7,922.94
<u>43358</u>	Regional Animal Services of King County	4/7/2016	\$195.00
<u>43359</u>	Republic Services, Inc. #176	4/7/2016	\$669.80
<u>43360</u>	RH2 Engineering Inc.	4/7/2016	\$25,070.28
<u>43361</u>	Rockpoint Consturction	4/7/2016	\$880.00
<u>43362</u>	Seth Boettcher	4/7/2016	\$39.10
<u>43363</u>	Sorci Family LLC	4/7/2016	\$3,577.00
<u>43364</u>	Springer Development	4/7/2016	\$125.41
<u>43365</u>	Stantec Consulting Services, Inc.	4/7/2016	\$69.58
<u>43366</u>	State Auditor Office	4/7/2016	\$10,234.19
<u>43367</u>	Summit Law Group	4/7/2016	\$1,658.26
<u>43368</u>	TRM Wood Products Co. Inc.	4/7/2016	\$199.61
<u>43369</u>	Utilities Underground	4/7/2016	\$35.42
<u>43370</u>	Valley Communications	4/7/2016	\$21,808.73
<u>43371</u>	Voice of The Valley	4/7/2016	\$231.00
<u>43372</u>	WA State Department of Corrections	4/7/2016	\$75.00
<u>43373</u>	Washington State Patrol	4/7/2016	\$103.25
<u>43374</u>	Water Management Laboratories, Inc.	4/7/2016	\$47.00
		Total	\$121,481.67

Vendor Number Account Number Description Amount

KCR-Pepper			
001-000-110-511-60-49-01	Miscellaneous		\$74.00
	Council-Oath of Office Recoring		
Total KCR-Pepper			\$74.00
KCR-Weber			
001-000-110-511-60-49-01	Miscellaneous		\$74.00
	Council-Oath of Office Recoring		
Total KCR-Weber			\$74.00
Total 43324			\$370.00
Total King County Recorders Office			\$370.00
Verizon Wireless			
43323			
9760267476	2016 - April - Pre-Council April 1st Council		
	Feb 11 to Mar 10, 2016 Services		
001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$760.79
Total 9760267476			\$760.79
9761080480	Feb 24 to Mar 23, 2016 Services		
001-000-110-511-60-42-00	Communications		\$40.01
001-000-130-513-10-42-00	Telephone/DSL		\$55.32
001-000-180-518-99-49-99	Mis Credit Clg		(\$564.00)
001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards		\$276.15
001-000-240-558-51-42-00	Telephone		\$73.14
001-000-246-558-70-42-01	Telephones		\$139.98
001-000-254-518-20-42-00	Facilities-Communication		\$55.32
001-000-270-576-80-42-00	Telephone/DSL/Radios		\$18.66
001-000-280-536-20-42-00	Telephone, DSL & Radios		\$9.33
101-000-000-542-90-42-01	Telephone/DSL/Radios		\$102.60
401-000-000-534-80-42-00	Telephone/DSL/Radios		\$111.93
407-000-000-535-80-42-00	Telephone/DSL/Radios		\$111.93
410-000-000-531-10-42-00	Telephone/DSL/Radios		\$111.93
Total 9761080480			\$542.30
Total 43323			\$1,303.09
Total Verizon Wireless			\$1,303.09
Grand Total			\$2,131.64
Vendor Count		3	

Voucher Directory



Vendor	Number	Reference	Account Number	Description	Amount
ADT Security Services (PA)					
	0	580803445		2016 - April - 1st Council	
			March Services		
			001-000-270-576-80-49-02	Security	\$3.26
			PW Shops		
			001-000-280-536-20-49-02	Security	\$6.53
			PW Shops		
			101-000-000-542-90-49-03	Security	\$35.90
			PW Shops		
			401-000-000-534-80-49-07	Security	\$39.16
			PW Shops		
			407-000-000-535-80-49-05	Security	\$39.16
			PW Shops		
			410-000-000-531-10-49-04	Security	\$39.16
			PW Shops		
			Total 580803445		\$163.17
			Total 0		\$163.17
			Total ADT Security Services (PA)		\$163.17
			Beatriz Jordan		
			0		
			1232	2016 - April - 1st Council	
				March Services	
			001-000-120-512-50-41-04	Court Interpreter	\$139.96
			Case 5Z0695661		
			Total 1232		\$139.96
			Total 0		\$139.96
			Total Beatriz Jordan		\$139.96
			Blumenthal Uniforms & Equipment		
			0		
			4961516	2016 - April - 1st Council	
				Uniforms	\$123.68
			001-000-210-521-10-31-04	Police-Shirt	\$123.68
			Total 4961516		\$123.68
			Total 0		\$123.68
			Total Blumenthal Uniforms & Equipment		\$123.68

Vendor Number Reference Account Number Description Amount

Brown's Automotive Inc.

Vendor	Number	Reference	Account Number	Description	Amount
	0			2016 - April - 1st Council	
	5636			March Service	
		001-000-210-521-10-48-01		Vehicle Maintenance & Repair	\$61.38
				Police-Rotate Tires, Oil Change	\$61.38
	Total 5636				
	5650			March Service	
		001-000-210-521-10-48-01		Vehicle Maintenance & Repair	\$52.53
				Police-Rotate Tires, Transmission Flush	\$52.53
	Total 5650				\$113.91
					\$113.91
	CHN5975			2016 - April - 1st Council	
				March Purchases	
		310-000-011-594-18-64-00		General Government Technology	\$371.81
				New Server	\$371.81
	Total CHN5975				\$371.81
					\$371.81
					\$371.81
	1360361442			2016 - April - 1st Council	
				February 25 to March 8, 2016 Services	
		001-000-254-518-20-42-00		Facilities-Communication	\$29.58
	Total 1360361442				\$29.58
					\$29.58
					\$29.58
	032016 CL			2016 - April - 1st Council	
				Telephone/DSL	\$44.96
		001-000-120-512-50-42-00		Police Telephone/DSL/Air Cards	\$280.26
		001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	\$58.45
		001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	\$69.34
		001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	\$346.89
		001-000-270-576-80-42-00		Telephone/DSL/Radios	\$4.81
		001-000-280-536-20-42-00		Telephone, DSL & Radios	\$2.40
		101-000-000-542-90-42-01		Telephone/DSL/Radios	\$26.44
		401-000-000-534-80-42-00		Telephone/DSL/Radios	\$28.84
		401-000-000-534-80-42-00		Telephone/DSL/Radios	\$265.09

Voucher Number Reference Account Number Description Amount

407-000-000-535-80-42-00 Telephone/DSL/Radios \$49.39
 407-000-000-535-80-42-00 Telephone/DSL/Radios \$53.19
 407-000-000-535-80-42-00 Telephone/DSL/Radios \$28.84
 407-000-000-535-80-42-00 Telephone/DSL/Radios \$40.63
 407-000-000-535-80-42-00 Telephone/DSL/Radios \$44.96
 410-000-000-531-10-42-00 Telephone/DSL/Radios \$28.84
Total 032016 CL
\$1,373.33
\$1,373.33
\$1,373.33

Total 0
 Total CenturyLink (WA)
 CHS/Cenex 0

022916 124244 2016 - April - 1st Council
 February Fuel
 001-000-246-558-70-32-00 Fuel \$85.90
 MDRT
 001-000-270-576-80-32-00 Fuel \$29.50
 001-000-280-536-20-32-00 Fuel \$14.76
 101-000-000-543-50-32-00 Fuel \$162.24
 401-000-000-534-80-32-00 Fuel \$176.99
 407-000-000-535-80-32-00 Fuel \$176.99
 410-000-000-531-10-32-00 Fuel \$823.37
Total 022916 124244
022916 128275

Total 0
 Total CHS/Cenex
 City of Black Diamond 0

022916 128275 2016 - April - 1st Council
 February Fuel
 001-000-210-521-10-32-00 Fuel \$1,319.51
 Police
Total 022916 128275
033116 COBD

033116 COBD 2016 - April - 1st Council
 March Services
 001-000-212-521-50-47-01 Water \$224.66
 Police-Water
 001-000-212-521-50-47-02 Sewer \$62.26
 Police-Sewer
 001-000-212-521-50-47-03 Stormwater \$80.00
 Police-Storm
 001-000-248-518-20-47-01 MDRT BD Wtr, Swr, Storm \$51.42
 City Hall - MDRT
 001-000-254-518-20-47-00 City Hall Facilities-Utilities \$77.20
 City Hall

Vendor Number	Reversals Account Number	Description	Effort
001-000-270-575-30-47-01	Museum-Storm	Museum Water/Sewer/Storm	\$32.00
001-000-270-575-30-47-01	Museum-Water, Sewer	Museum Water/Sewer/Storm	\$100.79
001-000-270-575-51-47-01	Gym-Water	Gym-Stormwater	\$44.14
001-000-270-575-51-47-02	Gym-Sewer	Gym-Sewer	\$62.26
001-000-270-575-51-47-03	Gym-Storm	Gym-Water	\$32.00
001-000-270-576-80-47-01	Parks-Water	Water	\$3.28
001-000-270-576-80-47-01	Eagle Creek-Water	Water	\$35.63
001-000-270-576-80-47-01	Coal Car-Water	Water	\$35.63
001-000-270-576-80-47-02	Parks-Sewer	Sewer	\$4.98
001-000-270-576-80-47-03	Boat Launch-Storm	Stormwater	\$96.00
001-000-270-576-80-47-03	Stormwater-Parks	Stormwater	\$11.52
001-000-280-536-20-47-01	Cemetery	Water	\$0.82
001-000-280-536-20-47-01	Cemetery-Water	Water	\$35.63
001-000-280-536-20-47-02	Cemetery-Sewer	Sewer	\$1.25
001-000-280-536-20-47-03	Stormwater-Cemetery	Stormwater	\$2.88
001-000-530-522-10-47-01	Fire Dept-Water	Water	\$39.16
001-000-530-522-10-47-02	Fire Dept-Sewer	Sewer	\$62.26
001-000-530-522-10-47-03	Fire Dept-Storm	Stormwater	\$40.00
101-000-000-543-31-47-01	Street-Water	Water	\$6.15
101-000-000-543-31-47-01	Railroad Ave Irg.	Water	\$35.63
101-000-000-543-31-47-02	Street-Sewer	Sewer	\$9.34
101-000-000-543-31-47-03	Stormwater-Street	Stormwater	\$21.60

Voucher Number	Reference	Account Number	Description	Amount
		401-000-000-534-80-47-01	Water	\$10.25
		401-000-000-534-80-47-02	Water-Water	
		401-000-000-534-80-47-02	Sewer	\$15.57
		401-000-000-534-80-47-03	Sewer-Water	
		401-000-000-534-80-47-03	Stormwater	\$36.00
		407-000-000-535-80-47-01	Stormwater-Water	
		407-000-000-535-80-47-01	Water	\$10.25
		407-000-000-535-80-47-02	Water-Sewer	
		407-000-000-535-80-47-02	Sewer	\$15.57
		407-000-000-535-80-47-03	Sewer-Sewer	
		407-000-000-535-80-47-03	Stormwater	\$96.00
		410-000-000-531-10-47-01	Sewer Lagoon-Storm	
		410-000-000-531-10-47-01	Water	\$10.25
		410-000-000-531-10-47-02	Drainage-Water	
		410-000-000-531-10-47-02	Sewer	\$15.57
		410-000-000-531-10-47-02	Sewer-Drainage	
		410-000-000-531-10-47-02	Sewer	\$36.00
		410-000-000-531-10-47-03	Drainage-Sewer	
		410-000-000-531-10-47-03	Stormwater	\$36.00
		410-000-000-531-10-47-03	Stormwater-Drainage	
			Total 033116 COBD	
			Total 0	\$1,489.95
			Total City of Black Diamond	\$1,489.95
			City of Covington	\$1,489.95
			0	
			6901	
			2016 - April - 1st Council	
			February Services	\$1,438.25
			001-000-240-558-51-41-03	\$1,438.25
			Bldg Official Costs	\$1,438.25
			Total 6901	\$1,438.25
			04674	
			2016 - April - 1st Council	
			February Services	\$60.00
			001-000-211-523-60-49-00	\$60.00
			Jail Costs	\$60.00
			Police-1 Jail Bed @ 60 per Day	\$60.00
			Total 04674	\$60.00
			Total 0	\$60.00
			Total City of Enumclaw	\$60.00
			City of Enumclaw	\$60.00
			0	

City of Maple Valley
0

2016 - April - 1st Council		
030115 FN0079	March 2015 Services-Not Previously Billed	\$975.00
	001-000-240-558-51-41-03 Bldg Official Costs	
	Inspections	\$975.00
Total 030115 FN0079		
040115 FN0079	April 2015 Services-Not Previously Billed	\$2,062.50
	001-000-240-558-51-41-03 Bldg Official Costs	
	Inspections	\$2,062.50
Total 040115 FN0079		
050115 FN0079	May 2015 Services-Not Previously Billed	\$975.00
	001-000-240-558-51-41-03 Bldg Official Costs	
	Inspections	\$975.00
Total 050115 FN0079		
060115 FN0079	June 2015 Services-Not Previously Billed	\$1,443.75
	001-000-240-558-51-41-03 Bldg Official Costs	
	Inspections	\$1,443.75
Total 060115 FN0079		
100115 FN0079	October 2015 Services-Not Previously Billed	\$2,343.75
	001-000-240-558-51-41-03 Bldg Official Costs	
	Inspections	\$2,343.75
Total 100115 FN0079		
INV02600	January Services	\$1,875.00
	001-000-240-558-51-41-03 Bldg Official Costs	\$1,875.00
Total INV02600		
INV02603	February Services	\$1,687.50
	001-000-240-558-51-41-03 Bldg Official Costs	\$1,687.50
Total INV02603		
030716 568	February Services	\$11,362.50
	001-000-145-518-80-41-01 Inf. Tec. Svs. - Milton	\$567.37
	001-000-248-518-20-49-12 Technology Costs	\$87.28
	101-000-000-543-30-49-12 Technology-Sys, Sec, Email, SW, Etc	
Total 0		
Total City of Maple Valley		
City of Millton		

Member Number Reference Account Number Description Amount

401-000-000-534-80-49-12 Tech-Sys, Sec. Email, SW, Etc \$436.44
 407-000-000-535-80-49-12 Tech-Sys, Sec. Email, SW, etc. \$436.44
 410-000-000-531-10-49-12 Tech-Sys, Sec. Email, SW, Etc. \$436.44
 Total 030716 568 \$4,364.38
 \$4,364.38
 \$4,364.38

031016 8498 34 014 0122286 2016 - April - 1st Council \$221.31
 001-000-214-521-20-42-00 Police Telephone/DSL/Air Cards \$221.31
 Total 031016 8498 34 014 0122286

031616 8498 34 014 0106156 Police Telephone/DSL/Air Cards \$95.00
 001-000-214-521-20-42-00 Police Telephone/DSL/Air Cards \$95.00
 Total 031616 8498 34 014 0106156 \$316.31
 \$316.31

031016 8498 34 014 0106172 2016 - April - 1st Council \$3.28
 001-000-120-512-50-42-00 Telephone/DSL \$3.28
 Total 031016 8498 34 014 0106172 \$3.28
 \$3.28

41297275 2016 - April - 1st Council \$55.33
 March 1 to March 31, 2016 Services MDRT Telephone, Fax, Internet costs \$237.13
 001-000-248-518-20-42-00 Facilities-Communication \$15.80
 101-000-000-542-90-42-01 Telephone/DSL/Radios \$31.65
 401-000-000-534-80-42-00 Telephone/DSL/Radios \$27.65
 407-000-000-535-80-42-00 Telephone/DSL/Radios \$27.65
 410-000-000-531-10-42-00 Telephone/DSL/Radios \$395.21
 Total 41297275 \$395.21
 \$395.21

32550 2016 - April - 1st Council \$6,525.99
 March Purchases Police Technology & Other \$6,525.99
 310-000-011-594-21-64-03

Total 0
 Total City of Milton Comcast (34227) 0
 Total Comcast (34227)
 Comcast (34744) 0
 Total Comcast (34744)
 Comcast (PA) 0

Voucher Number Reference Account Number Based Month Amount

Police-Toughbooks, Docking Station, Car Adapter

Total 32550
 Total 0
 Total Datec Incorporated \$6,525.99
 Dept of Licensing 0 \$6,525.99
 \$6,525.99

03182016 DOL
 2016 - April - 1st Council
 633-000-000-586-14-00-00 Due to St-Firearms Dealers License
 Police-Firearms Dealer License \$125.00

Total 03182016 DOL \$125.00
 Total 0
 Total Dept of Licensing \$125.00
 Granite Telecommunications 0 \$125.00

030116 GC
 2016 - April - 1st Council
 March Services
 001-000-248-518-20-42-00 MDRT Telephone, Fax, Internet costs \$17.12
 001-000-254-518-20-42-00 Facilities-Communication \$25.67
 Total 030116 GC \$42.79
 \$42.79
 \$42.79

Total 0
 Total Granite Telecommunications
 Hanging Gardens Nursery 0 \$42.79

8027
 2016 - April - 1st Council
 February Purchase
 408-000-003-594-35-63-00 Preserve Sewer Treatment Plant \$113.95
 Total 8027 \$113.95

Total 0
 Total Hanging Gardens Nursery
 Home Depot Credit Service 0 \$113.95

4737 00006 64805
 2016 - April - 1st Council
 March Purchase
 001-000-248-518-20-48-00 MDRT-Bldg/Gen Mic Costs \$4.65
 MDRT-Adjustable Flapper
 Total 4737 00006 64805 \$4.65
 4737 00056 09433

March Purchase
 101-000-000-543-50-35-00 Small Tools & Equipment \$43.37
 Street-Line Lazer, Makita Socket Set
 Total 4737 00056 09433 \$43.37

Voucher Number | Reference Account Number | Description | Amount

4747 00059 48765	March Purchase		
	001-000-270-575-51-48-00	Gym Facility Repair & Maintenance	\$8.72
		Gym-2Pk Lashing Strap	\$8.72
Total 4747 00059 48765			
4747 00059 48773	March Purchase		
	001-000-181-518-30-31-00	Office & Operating Supplies	\$39.32
		CD-Light Bulbs	\$39.32
Total 4747 00059 48773			\$96.06
			\$96.06
Total 0			
Total Home Depot Credit Service			
Honey Bucket/Northwest Cascade Inc.			
0			
2-1559005			
	2016 - April - 1st Council		\$87.00
	February 18 to March 16, 2016 Rental		\$87.00
	001-000-270-576-80-31-00	Portable Restroom Facility	\$87.00
		Parks	\$87.00
Total 2-1559005			\$32.16
Total Honey Bucket/Northwest Cascade Inc.			\$32.16
Jeffery Rominger			\$87.00
0			\$87.00
03-18-16 JR			
	2016 - April - 1st Council		\$32.16
	410-000-000-343-83-00-00	Stormwater Charges	\$32.16
		Overpayment refund Account 3570	\$32.16
Total 03-18-16 JR			\$32.16
Total 0			
Total Jeffery Rominger			\$132.64
Johnsons Home & Garden			\$132.64
0			\$9.22
401828			\$9.22
	2016 - April - 1st Council		\$59.11
	January Purchase		
	001-000-270-576-80-35-00	Small Tools & Safety Equip	\$132.64
		Parks-Drum Liners, Nuts and Bolts	\$132.64
Total 401828			\$9.22
402907			\$9.22
	March Purchase		
	001-000-270-575-51-48-00	Gym Facility Repair & Maintenance	\$9.22
		Gym-Staples	\$9.22
Total 402907			\$59.11
403338			\$59.11
	March Purchase		
	101-000-000-542-90-31-01	Operating Supplies	\$59.11

Vendor Number	Reference	Account Number	Description	Amount
		401-000-000-534-80-31-01	Operating Supplies	\$59.13
		407-000-000-535-80-31-01	Operating Supplies	\$59.13
		410-000-000-531-10-31-00	Office Supplies	\$236.50
Total 403338				
403339				
Total 403339				
Total 0				
Total Johnsons Home & Garden				
Kara Murphy Richards				
0				
Total 0				
Total Kara Murphy Richards				
Law Offices of Susan Elizabeth Drummond, PLLC				
0				
Total 0				
040116 KMR				
2016 - April - 1st Council				
April Services				
001-000-151-515-30-41-04			Court Legal-Pros Attorney	\$2,000.00
Total 040116 KMR				\$2,000.00
Total 0				
Total Kara Murphy Richards				
Law Offices of Susan Elizabeth Drummond, PLLC				
0				
Total 0				
972				
2016 - April - 1st Council				
February Services				
401-000-000-534-80-41-04			Legal Svcs	\$220.00
Covington Water District UTRC Appeal				\$220.00
Total 972				\$220.00
Total 0				
Total Law Offices of Susan Elizabeth Drummond, PLLC				
Mark Hilfer				
0				
Total 0				
03-08-16 MH				
2016 - April - 1st Council				
401-000-000-343-40-00-01			Water Charges	\$305.65
Overpayment refund Account 2750.				\$305.65
Total 03-08-16 MH				\$305.65
Total 0				
Total Mark Hilfer				
Melanie Thomas Dane				
0				
Total 0				
040116 MTD				
2016 - April - 1st Council				
April Services				
001-000-120-512-50-41-00			Court Judge	\$2,000.00
Total 040116 MTD				\$2,000.00
Total 0				
Total Melanie Thomas Dane				

Office Products Nationwide
 0

Voucher Number	Reference Account Number	Description	Amount
831755	2016 - April - 1st Council		
	March Purchase		
	001-000-180-518-99-31-01	Office Supplies CD Bldg Clearing	\$55.11
Total 831755			\$55.11
832017			
	March Purchase		
	001-000-180-518-90-31-00	Office Supplies City Hall	\$34.15
	001-000-180-518-90-31-00	Office Supplies City Hall	\$78.38
	001-000-254-518-20-31-00	Facilities Operating Supplies	\$34.15
Total 832017			\$146.68
833024			
	March Purchase		
	001-000-240-558-51-31-00	Office & Operating Supplies	\$21.59
Total 833024			\$21.59
834598			
	March Purchase		
	001-000-254-518-20-31-00	Facilities Operating Supplies	\$136.23
Total 834598			\$136.23
835904			
	March Purchase		
	001-000-210-521-10-31-00	Operating Supplies	\$220.03
Total 835904		Police-Office Supplies	\$220.03
			\$579.64
			\$579.64
030816 O & A	2016 - April - 1st Council		
	January and February 2016 Services		
	001-000-240-558-60-41-06	Prof Svs-Gen Gvt Planner	\$614.68
		Hearing Examiner	
Total 030816 O & A			\$614.68
			\$614.68
			\$614.68
Total 01brechts & Associates, PLLC			
Parametrix, Inc.			
0			
01-76726	2016 - April - 1st Council		
	February 22 to March 1, 2016 Services		
	001-000-240-558-51-41-01	Prof Services Dev. Pass Thru	\$1,825.00
		CD-On Call Services-Diamond Ridge Plat	
Total 01-76726			\$1,825.00

Vendor Number	Reference Account Number	Description	Amount
001-000-270-575-51-47-00	Gym-Acct 220006098002	Gym- Electricity and Gas	\$290.01
001-000-270-576-80-47-00	Lake Sawyer Boat Launch-Acct 300000007140	Electric/Gas	\$33.18
001-000-270-576-80-47-00	PW Shop-Parks-Acct 200017719507	Electric/Gas	\$4.08
001-000-280-536-20-47-00	PW Shop-Cemetery-Acct 200017719507	Electric/Gas	\$2.04
101-000-000-542-63-47-01	Roberts Drive-Acct 200024810877	Street Lighting	\$29.65
101-000-000-542-63-47-01	Street Lights-Acct 300000003735	Street Lighting	\$2,323.21
101-000-000-542-63-47-01	Baker St Crosswalk-Acct 200015449073	Street Lighting	\$14.08
101-000-000-542-63-47-01	Kentlake Traffic Signal-Acct 200008062834	Street Lighting	\$240.52
101-000-000-542-63-47-01	Cov Sawyer & 216th-Acct 200008062644	Street Lighting	\$48.09
101-000-000-543-31-47-00	PW Shop-Street-Acct 200017719507	Electric/Gas	\$22.41
401-000-000-534-80-47-00	Booster Station-Acct 200002538847	Electric/Gas	\$2,095.21
401-000-000-534-80-47-00	.5 Mill Gal Resv-Acct 200008062404	Electric/Gas	\$713.10
401-000-000-534-80-47-00	Booster Station-Acct 200008062180	Electric/Gas	\$27.05
407-000-000-535-80-47-00	Morganville Lift Stn-Acct 200001558101	Electric/Gas	\$24.45
407-000-000-535-80-47-00	PW Shop-Sewer-Acct 200017719507	Electric/Gas	\$108.13
407-000-000-535-80-47-00	Sewer Pump-Acct 200016310662	Electric/Gas	\$24.45
410-000-000-531-10-47-00	Dia Glen Sewer-Acct 200019391925	Electric/Gas	\$12.62
	PW Shop-Drainage-Acct 200017719507	Electric/Gas	\$32.75
Total 030416 PSE			\$24.45
Total 0			\$7,922.94
Total Puget Sound Energy			\$7,922.94
			\$7,922.94

Regional Animal Services of King County			
0	031816 RKCA	2016 - April - 1st Council	
	March Pet Licenses		\$195.00
	633-000-000-589-00-00-01	King County Animal License	\$195.00
	Total 031816 RKCA		\$195.00
	Total 0		\$195.00
Total Regional Animal Services of King County			
0	0176-004630496	2016 - April - 1st Council	
	February Services		\$204.63
	001-000-254-518-20-47-01	Facilities-Waste Disposal	\$204.63
	City Hall		
	Total 0176-004630496		\$204.63
	0176-004630857		
	February Services		\$5.21
	001-000-270-576-80-47-04	Waste Disposal	\$10.42
	PW-Parks		\$57.32
	001-000-280-536-20-47-04	Waste Disposal	\$62.53
	PW-Cemetery		\$62.53
	101-000-000-543-31-47-04	Waste Disposal	\$62.53
	PW-Street		\$62.53
	401-000-000-534-80-47-04	Waste Disposal	\$62.53
	PW-Water		\$62.53
	407-000-000-535-80-47-04	Waste Disposal	\$62.53
	PW-Sewer		\$260.54
	410-000-000-531-10-47-04	Waste Disposal	\$204.63
	PW-Drainage		\$204.63
	Total 0176-004630857		\$204.63
	0176-004631021		
	February Services		\$204.63
	001-000-212-521-50-47-04	Waste Disposal	\$669.80
	Police		\$669.80
	Total 0176-004631021		\$669.80
	Total 0		\$669.80
Total Republic Services, Inc. #176			
0	64544	2016 - April - 1st Council	
	February Services		\$18,176.31
	001-000-257-558-70-41-02	MDRT Civil Engineering-RH2 Engineering	\$18,176.31
	Master Development Review		
	Total 64544		\$18,176.31

Sorci Family LLC

0

2016 - April - 1st Council

040116 SF

April Rental

001-000-248-518-20-45-02
 001-000-254-518-20-45-02
 001-000-254-518-20-45-05

MDRT Property Rental Cost
 Facilities-Prop Rental
 Facilities City Hall Bldg Rental

\$618.00
 \$927.00
 \$2,032.00
 \$3,577.00
 \$3,577.00

Total 040116 SF

Total 0

Total Sorci Family LLC

0

Springer Development

2016 - April - 1st Council

03-18-16 SD

401-000-000-343-40-00-01
 Overpayment refund Account 3816.1

Water Charges

\$125.41

Total 03-18-16 SD

Total 0

Total Springer Development

0

Stantec Consulting Services, Inc.

0

2016 - April - 1st Council

404000009594346300

January 2016 Services

404-000-009-594-34-63-00

Downtown Water Repl Proj

\$69.58
 \$69.58
 \$69.58
 \$69.58

Total 404000009594346300

Total 0

Total Stantec Consulting Services, Inc.

0

State Auditor Office

0

2016 - April - 1st Council

L112987

February Services

001-000-140-514-23-41-01
 101-000-000-543-50-35-00
 401-000-000-534-80-35-00
 407-000-000-535-80-35-00
 410-000-000-531-10-35-00

State Auditor Services
 Small Tools & Equipment
 Small Tools & Safety Equip
 Small Tools & Safety Equipment
 Small Tools and Safety Equipment

\$2,558.55
 \$614.06
 \$2,353.86
 \$2,353.86
 \$2,353.86
 \$10,234.19
 \$10,234.19
 \$10,234.19

Total L112987

Total 0

Total State Auditor Office

0

Summit Law Group

0

2016 - April - 1st Council

78170 & 78171

February Services

001-000-150-515-30-41-01
 101-000-000-543-30-41-05

Legal Services-General Govt
 Legal Costs

\$24.50
 \$408.44

Vendor	Quantity	Reference	Account Number	Description	Amount
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WA State Department of Corrections					
0		0216.1-16 KCWC-HQ		2016 - April - 1st Council	
		February Services			
		001-000-211-523-60-49-04		Work Crew Costs-State Exp	\$75.00
				5 Worker Days @ 15 Per Day	\$75.00
		Total 0216.1-16 KCWC-HQ			\$75.00
		Total WA State Department of Corrections			
0		116006136		2016 - April - 1st Council	
		February Services			
		633-000-000-586-00-00-06		Due to WSP-FBI Fingerprinting-Background	\$103.25
				Background Checks	\$103.25
		Total 116006136			\$103.25
		Total Washington State Patrol			
0		147352		2016 - April - 1st Council	
		February Services			
		401-000-000-534-80-41-02		Water Testing and Sampling	\$47.00
		Total 147352			\$47.00
		Total Water Management Laboratories, Inc.			
		Vendor Count			\$47.00
					\$47.00
		Grand Total			\$119,350.03

BLACK DIAMOND CITY COUNCIL MINUTES

January 21, 2016

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Morgan, Edelman, Weber and Pepper.

ABSENT: None

Staff present were: Seth Boettcher, Public Works Director; Mayene Miller, Finance Director; Jamey Kiblinger, Police Chief; Barbara Kincaid, Community Development Director; Carol Morris, City Attorney and Brenda L. Martinez, City Clerk.

Councilmember Pepper let the Mayor know that after roll call she intends to move for a reordering of the agenda.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Police – Chief Kiblinger

Chief Kiblinger discussed the quarterly employee recognition awards they give in the department and the process of how officers are nominated. She noted receiving two nominations for the last quarter from Sgt. Brian Martinez and Sgt. Brian Lynch for the award to go to Bill Riepl the departments Reserve Officer. Chief Kiblinger stated that Officer Riepl has put in over 1,000 volunteer hours to the department. Sgt. Martinez and Stg. Lynch read their nomination letters into the record and are attached and incorporated into the minutes.

Chief Kiblinger presented Reserve Officer Riepl with his award.

A motion was made by Councilmember Pepper and seconded by Councilmember Weber to amend the agenda to move item #9 Resolution No. 16-1069 to immediately after public comments and prior to item 3 and reordering the remaining items accordingly. Motion passed 4-1 (Edelman)

CONSENT AGENDA:

A motion was made by Councilmember Deady and seconded by Councilmember Pepper to adopt the Consent Agenda. Motion passed with all voting in favor (5-0). The Consent Agenda was approved as follows:

- 1) **Claim Checks** - January 21, 2016 - No. 43080 through No. 43135 and EFTs in the amount of \$147,078.81
- 2) **Payroll** - December 31, 2015, No. 18737 through No. 18756 and ACH payment in the amount of \$267,673.75

PUBLIC COMMENTS:

Robert Taeschner, Black Diamond commented on discussing with his college students that all art is a reflection of the time and place it was created. He believes all laws are too. He discussed coming to Black Diamond in 1960 and his love for the area and the importance for him to be a citizen in a city and would like folks who live in Black Diamond determine what will be done in Black Diamond.

Peter Kellerman, Kent discussed the definition of insanity and how current things have been done has not benefited anyone. He discussed traffic issues and applauded Councilmembers Pepper and Morgan for the changes they are implementing as it in line with what the voters want.

Johna Thomson, Black Diamond commented on the changes to the Council rules and discussed how these rules need to be looked at periodically and revised. She noted there being a lot of changes to the rules and hopes each Councilmember takes the times to consider each and every change as these are the rules by which Council operates under. She also discussed the change in the form of government being voted down and not understanding why we need a Council President.

Brock Deady, Black Diamond updated Council on scheduled activities at the gym. He commented on the resolutions before Council tonight and noted from his point of view these would be best handled in a workstudy so it is an exchange of ideas. He stated he doesn't feel this is being done the right way and they should be taken off the agenda. He also discussed the committees that are being put forth and noted not seeing a committee for parks and cemetery and feels this is an important committee.

Robbin Taylor, Black Diamond read into the record her written comments which are attached and incorporated into the minutes.

Gayle Loon, an attorney and open governments advocate noted she is here tonight at the request of a client who resides in Black Diamond. She discussed what her role is at the meeting tonight. She read a quote from Thomas Jefferson and also discussed listening to the audio recording from the January 7th meeting as requested by her client and after doing so she also reviewed the RCWs, Roberts Rules, and the Council Rules and was

provided an email regarding a special meeting notice. She discussed the special meeting and stated giving no opinion on the content and spoke only to the procedure that was used under the Open Public Meetings Act which was proper and not a violation. She discussed not agreeing with the parliamentarian who expressed an opinion at that meeting in regards to Council rule 3.1 where nine days advanced notice is required for documents. She noted reading this rule as only applying to regular meetings; not special meetings and therefore there was no violation. She further discussed the special meeting requirements as laid out in the Council rules. Again, she noted there was no violation to the Open Public Meetings Act and refusing to post that notice...

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to allow her additional time to speak. Motion **passed** (3-2, Edelman, Deady)

Councilmember Edelman called for a Point of Order and asked how much time is allowed.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to allow this speaker a fair amount of time. Motion **passed** (3-2, Edelman, Deady).

Ms. Loon continued speaking about motions for amendments to the agenda or pulling items from the agenda. She noted not agreeing that the Mayor may remove items from the agenda once the agenda has been published and approved, which it had been on this occasion. Allowing this effectively gives the Mayor veto power over any agenda item and that is not what separation of powers requires. She discussed committees and appointments of committee members and referred to Council rules. She noted this being in the purview of the Council; not the Mayor. She then discussed a motion for reconsideration at this meeting by Councilmember Weber and the parliamentarians saying it couldn't be reconsidered as it had already been acted upon and no evidence was given to the Council that would have indicated that was true. She pointed out the Council rules that pertain to reconsideration and noted Councilmember Weber was properly following this process and there was no evidence that anything had been done to rely on that motion being passed. She cautioned the Council that unless you are prepared to provide that proof you open yourself up to criticism as well as potential liability. She stated that the City Attorney's rationale that it couldn't be reconsidered because it had acted simply wasn't something that was on the table. Her last topic was on use of confidential information and is based on her clients concerns and as well as her experience. She noted open government not just being an interest of hers, but a passion and believes it should be the passion of every citizen. She discussed the use of having the City Attorney review every document can be over used and abused. She discussed agencies inappropriately label documents as confidential when in fact they are not. In order to ensure that the decisions of the Council are based on solid data and solid legal advice she encouraged the use of the label confidential judiciously. In closing, she discussed her clients concern that the last council meeting was not repeated and as a citizen of this city he wants to see adherence to the rules, appropriate observation and adherence to the roles of each and every one and to see the business of this city gets done right, expeditiously and as an expression of the will of the people.

Carol Lynn Harp, Black Diamond commented on situations always changing and stretching beyond ones comfort zones, because that is where improvement lies. She discussed the Mayor needing to take care of all her chicks.

Cindy Wheeler, Black Diamond, commented on the power of the people being paramount in our government and that is why it is so important to choose good people. She discussed the Planning Commission being a representation of our government the City saying they wanted to be represented by people who live here or are running a business here. She discussed Ordinance No. 16-1072 being written by an employee who was not here when this code was revisited and changed. She noted this legislation being a major migration from what the citizens want.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to allow the speaker a fair amount of time to finish her comments.

Councilmember Edelman stated the need to define the amount of time given that Council has a lot of items the agenda.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to allow Mrs. Wheeler an additional three minutes. **Motion passed** as amended with all voting in favor (5-0).

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to amend her motion from a fair amount of time to three minutes. **Motion passed** with all voting in favor (5-0).

Cindy Wheeler continued and asked Council to not accept Ordinance No. 16-1072 and to clarify the code as was the intention 2 ½ years ago and to replace the word community with the word city and retain the language in the forfeiture clause.

Judy Carrier, Black Diamond discussed attending the January 7th Council meeting and noted leaving this meeting dismayed and confused. She discussed the election from last year. She stated supporting the rules being proposed by Councilmembers Morgan and Pepper as more work can be done with more input. In closing she noted the city needed the balance of power as it is currently unbalanced.

Kristen Bryant, Bellevue noted growing up in Black Diamond. She commented on being involved in various aspects of civic life in Black Diamond over the past five years and gave examples. She commented being glad to see new Council rules that have a different process to get the ideas in early and added these changes are procedural.

Bob Edelman, Black Diamond commented on going through the proposed rules very carefully and noted not understanding the motivation for the changes and hopes the proponents for the changes will explain them.

Brian Derdowski, Issaquah commented on it being a full house at the meeting and noted this participation is an asset and hopes the new Council will find new ways to encourage this. He commented on the speaking time and encouraged Council to take a soft approach to this. He discussed how the Council President in Kent also acts as the Mayor Pro-Tem. He further discussed the wide latitude available to Council on how to conduct city business.

Dave Ambur, Lake 12 commented on people being more comfortable with rules they have been living with rather than being forced by new people coming in and commented on the process that should have been taken with adoption of these rules. He noted that some changes in the rules seem okay, others are way out of line and some he does not know what the effect will be. He discussed the development in the City and noted Crown Development will probably not be the last developer on this property. He commented that Council needs to be treating each other with respect and get along and work together.

Aaron Scott, Black Diamond believes getting people from Kent to be on our committees is wrong, however many people out of the city have done wonderful things for Black Diamond which makes it difficult to decide who should help and who shouldn't He discussed YarrowBay shuffling their feet and noted his wife is trying real hard to create a balance and to do things on Council. He commented on the importance of working together as that's what the changes are intended to do.

Raymond Siburkis, Black Diamond commented on being a resident of Washington for 33 years and moving to Black Diamond as it is a small community. He stated had he known of the happenings in Black Diamond with the Council and development he may not have moved here. He discussed the election results from November and asked that Council get along rather than this chaos.

Jared Mauerman, Black Diamond commented on the YarrowBay project and noted not wanting to see the City change with the development that is being proposed.

Resolution No. 16-1069, revising the Council Rules of Procedure

Mayor Benson asked each Councilmember the following questions:

Councilmember Pepper

1) Did you get the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Pepper responded yes.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Pepper responded I read it and understand the idea that is being presented.

Councilmember Weber

1) Did you get the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Weber responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Weber responded yes.

Councilmember Edelman

1) Did you get the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Edelman responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Edelman responded I do.

Councilmember Morgan

1) Did you read the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Morgan responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand that? Councilmember Morgan responded she didn't get that too clearly necessarily from all the things that she read no.

Councilmember Deady

1) Did you read the 11 page confidential memo sent out to you by our attorney Carol Morris? Councilmember Deady responded I did.

2) It is very clear that the City attorney is recommending that you do not adopt these new rules as is our insurance provider. Do you understand? Councilmember Deady responded I do.

Councilmember Morgan stated these rule changes appear before the Council in this form that sadly has not had the review she described was the concept at the January 7th meeting and the reason for this is because City officials were trying to rush the process she described and demanded product prematurely. She noted the behavior on the part of the Mayor and Attorney has resulted in an imperfect product and has also instructed many changes as the Council needs to have a format where they can bring the public's needs into the rule making in the City. She also noted there are citizens who agree to live under the rules and they are the citizens who pay for the city's existence. She discussed needing some Council committees as that is where the deliberations happen and this helps Council to make better more thoughtful decisions and suggest that Council pass this resolution for now and steam ahead with more refined rules. She mentioned it being suggested by her and the public to hold workstudies as they continue this process and also mentioned getting input which will all be considered when it is decided on all the final changes.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt Resolution No. 16-1069, revising the Council Rules of Procedure

City Attorney Morris commented on Councilmember Morgan not understanding the letter from the city's insurance carrier and read into the record an excerpt from Roger Neal of Association of Washington Cities Risk Management Service Agency where he states to City Attorney Morris "In your review you raised numerous concerns about potential violations of law if the draft rules are adopted as presented. We concur with your concerns about the draft rules potentially, or actually being in conflict with state laws. Potentially knowingly violating state law by the council raises serious concerns for Risk Management Service Agency, the City of Black Diamond's risk pool. If the City adopts these rules without making the modifications suggested, there is a good chance that in the event of a lawsuit related to the application of these Council rules, such as a violation of the Open Public Meetings Act, the Risk Management Service Agency will follow the provision of Coverage Agreement. I call your attention to Part II Section 7. Exclusions". Ms. Morris continued to read from this email which it attached and incorporated into the minutes.

Ms. Morris also referred to case law she found in her search and pointed out that Council can't change their role and then become the Mayor. There is a separation of powers here, which is why our strong congress can't change the laws and become the President of the United States. She read excerpts from RCW 35A.12.100 regarding the Mayor is the Chief executive and administrative officer of the city, in charge of all departments and employees. He or she shall have general supervision of the administration of city government and all city interests. From the Washington State Supreme Court she then read from a case called Roehl v. Public Utility District No. 1 of Chelan County saying where the enabling legislation under which a municipal or quasi-municipal corporation derives its power confides legislative or discretionary functions in particular officials or boards, such functions may not be delegated to others, unless the enabling legislation provides otherwise, however, those in whom such functions repose may delegate to others the performance of duties of a purely ministerial or administrative nature.

She read from another authority saying the duties and powers imposed upon the mayor, designated departments and officers are considered in the nature of public trust and cannot be delegated or surrendered to other officers or departments, therefore the Council has no authority to pass a resolution which purports to strip the Mayor of his or her duties as established in state law and transfer them to the Mayor Pro-Tem who has no duties at all under state law unless and until the Mayor is absent or disabled. The Mayor makes decisions regarding the agenda based on staffing needs and the City budget. Members of the Council may propose agenda items, but the Mayor makes the final determination on matters included in the agenda. She noted people may be interested in reading this material from the insurance provider and stated it is not confidential and she can hand those out to anyone who is interested.

She again cautioned Council that before they adopt any rules you are under notice now that the insurance pool says that if you take action on this and there is a lawsuit that arises as a result you may not have coverage – the City may not have coverage and members may have to rely on their own personal insurance policy.

Councilmember Pepper commented the proposed changes are being brought forth because the Council on 1/7/16 was not able to conduct business. She also commented it is necessary to address those underlying issues before they can do anything else. As to the raised concern about insurance she noted there is no immediate crisis that could possibly ensue from adopting these changes tonight. It is her understanding that the rules that have been on the books for two or more years have language that possibly conflicts with the powers of the Mayor, yet we have been functioning without lawsuits and with insurance coverage. Nothing in our Council rules should be interpreted in a way that conflicts with state law. Nothing in the new rules is intended to conflict with state law. There are actually some conflicts that aren't part of changes that were suggested and she thinks it is very clear that she has put a lot of thought in to supporting these changes. She noted there is a resolution coming up tonight that supports continued future review of the rules so the public can continue to participate as well as the Mayor and the Councilmembers. She noted possible amendments can be looked at after the passage of this resolution tonight. She also noted the problem with waiting is they (Council) have no way to do committee work now and as a Councilmember with legal responsibilities to the voters she cannot vote on a legislation that has not been thoroughly reviewed and understood and committees are the best way to do this. She discussed the revised committee structure offers improved public participation and process and the other changes in the rules are also important to clarify the issues from their last meeting. She stated they must move forward as the risk of not adopting this tonight is much greater than the risk of waiting. In closing she stated feeling very strongly about the opportunity for public participation – people are interested and want to have a say. She noted wanting to pass this so they can get on with the business of getting this in the fashion the public and Council and hopefully the lawyers can come to some kind of terms.

Councilmember Edelman commented on Council having an opportunity on the 7th of January to pass a resolution which gave committee appointments by the Mayor and three Councilmembers chose not to support it and instead came in with their own agenda and that is why it was pulled. She also commented on the City having a strong Mayor form of government and noted being one of the folks that wrote part of the resolution that went to proposition 1 and to the voters and noted she was mistaken on this issue. She discussed the voters not passing this proposition as they wanted to keep the current form of government of a strong Mayor. She stated she does not support this and does not see where they are allowing any discussion of the content of it and will be voting no. She commented if this is passed there is a violation of the Open Public Meetings Act by putting three Councilmembers on the committees – that is a quorum. She discussed the committee structure as it is now and the process of how items were brought forward to the Council. She again noted not supporting this in any way shape or form without having a workstudy to go line by line.

Councilmember Deady commented that at the last Council meeting she asked for a workstudy to go over these Council rules. She further commented she has spent over 20 hours going over this material and doing research. She noted getting advice from the City Attorney as did all the Councilmembers and reading the advice from the City's insurance carrier and stated she will not be supporting this and will be voting no on Resolution No.

16-1069 and will follow the City Attorney's advice. She also commented on being supportive in the change of government, however it was voted down. She believes we need to listen to our citizens and do what they have asked and that is a strong Mayor.

Councilmember Weber commented on reading this resolution and all the confidential memos from the Attorney. He noted this is what the public is asking for – they are asking for the separation of the legislative and the executive. They want more participation and in no way does he want the Mayor's job. He also noted a lot of the changes are needed to move forward as they can't make a valid opinion or vote on a resolution that hasn't been through a committee or some sort of review. He believes with voting on this resolution they can move forward and amendments can be made. He further commented this being a living document (Council rules) so something can be established to move forward and that's what's important; he advocates for public communication and communication is a two way street and that's what this is about – trying to draw the public in to get more participation.

Councilmember Morgan thanked Attorney Morris for reading her letter into the record because those emails that came to her were marked as confidential and because they were marked confidential she couldn't share them with the public and they were directions and concerns about these Council rules and she was put in a box as she couldn't say why she needed to make changes to the public because they were marked confidential. She asked if all those memos...

City Attorney Morris stated the only thing she read from was the email from the insurance provider and a portion of case law that she included in her memo. Ms. Morris said she is not going read through her confidential memo to the public, however certainly anyone can get a copy of the letter from the insurance provider.

Councilmember Morgan asked City Attorney Morris if it would be possible to make a list of what could be made public as for her everything was marked confidential. City Attorney Morris responded yes.

City Attorney Morris pointed out something that hasn't been mentioned at all and that is the violation of the Open Public Meetings Act by having committees that have three Councilmembers on them. She noted previously the City had committees comprised of two Councilmembers and now they will be comprised of three Councilmembers on all the committees which means that when you take action under the rules you are going to be taking action to vote to do pass, meaning you are taking final action on resolutions and other matters that come before the Council. She further noted that at these committee meetings when you take final action there is nothing left to do – it doesn't come back to the Council because the committee has already acted on it. She feels there is a basic misunderstanding of the process of a do pass on a resolution by the three Councilmembers, means that the resolution passed and if you did that at a committee meeting without any legal review as the rules have been crafted so there is no attorney review of anything. She added it also states in the rules that City staff input is all eliminated. The language in the rules that said the committees would work in conjunction

with City staff has all been eliminated and she doesn't think they understand the cost to the city as a result of these new procedures. If you have three councilmembers on every committee then the City Clerk is going to have to give notice of every single one of those committee meetings individually every single time as special meeting. This additional notice is going to have to be given out every single time and if the attorney is going to be attending these meetings she will need to be given notice of it. She noted having a schedule and other clients and may not be able to attend all the committee meetings where they are taking final action. If you are going to cut the staff out and are just going to act together in your committee and are keeping out Councilmember Edelman and Councilmember Deady and you're keeping the staff and attorney out she doesn't see how this is the way government needs to function and you can see why the insurance provider is telling you you're exposing yourself to liability. She doesn't know of any City that operates this way of having committees comprised of three Councilmembers where they take final action outside of a City Council meeting or any city that is so enthusiastic about taking action without input from the City Attorney. She discussed the meeting and rules being drafted without being sent to her and she had to get a hold of them to provide Council with her input. She noted items usually come to the City Attorney for review and then they go on the agenda, however apparently that is not the way the Council wants to work it or work it with the committees either and that is why the insurance provider has made the opinion they have.

Vote: Motion passed (3-2, Edelman, Deady).

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

Resolution No. 15-1060, adopting Facility Use Policy

City Attorney Morris reported this item was postponed from the December 17, 2015 Council meeting. She noted these rules are necessary in order to allow public use of City facilities and outlines the process for reserving the gym, associated fees, and insurance requirements.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution No. 16-1060, adopting a Facility Use Policy.

Councilmember Pepper stated she loves the idea of the gym as it is a destination for people in Black Diamond. She noted there being no committee review of this and would like to see it go to committee and she recommends it go to the Budget, Finance and Administration Committee.

Brock Deady reported meeting with staff to answer questions he had regarding excluding people from using the gym especially those under the age of eighteen. He noted that since he is the one that is present during open gym kids under eighteen can participate.

Vote: Motion passed with all voting in favor (5-0).

NEW BUSINESS:

Resolution No. 16-1066, authorizing a contract with NexisLexis for credit card services for the Court

Finance Director Miller reported investigating many options for the Court to provide credit card services. She noted other Courts use this company and one of the benefits is it is available 24 hours allowing people to pay their fines online.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Deady to adopt Resolution No. 16-1066, authorizing the Mayor to execute an agreement with NexisLexis VitalChek Network Inc., for the online credit card payment service for the Municipal Court.

Vote: Motion passed with all voting in favor (5-0).

Ordinance No. 16-1071, amending Black Diamond Municipal Code section 10.44.030 regarding Traffic Safety School

Chief Kiblinger reported the City currently charges a fee of \$200.00 for traffic safety school. However, RCW 46.83.080 does not allow the City to charge a fee in excess of the penalty of the infraction. She noted most infractions start at \$136.00 and go up, depending on the violation. She also added that during the next fee schedule update this change will be made on the schedule.

Councilmember Edelman commented that during the upcoming budget process there will be time spent on reviewing the fee schedule.

Councilmember Pepper stated having some concerns and would have preferred this item went to committee.

Councilmember Deady suggested acting on this item tonight rather than taking it through a committee.

Councilmember Weber wondered if the City would need to give out refunds.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt Ordinance No. 16-1071, relating to traffic safety school, changing the fee charged by the City for the school so that it is not in excess of the penalty for an unscheduled traffic infraction, as limited by RCW 46.83.080, amending Black Diamond Municipal Code section 10.44.030.

Vote: Motion passed with all voting in favor (5-0).

Resolution No. 16-1067, authorizing Addendum to Valley Communications Agreement

Chief Kiblinger reported this being the City's annual addendum with Valley Communications for police dispatch services. She also noted there being no dollar increase for 2016.

There was Council discussion on this item.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution No. 16-1067, authorizing the Mayor to execute the addendum to the agreement with Valley Communications for dispatch services.

Vote: Motion passed with all voting in favor (5-0).

Resolution No. 16-1068, extension of Joint Public Works Interlocal Agreement with Maple Valley and Covington

Public Works Director Boettcher reported the City has had an interlocal agreement they have operated under since 2011 with Covington and Maple Valley. He discussed utilizing it with training opportunities and joint crack sealing projects. He stated this is an extension of the current agreement and will expire on December 31, 2020. He recommended Council consider approving this extension.

There was Council discussion on this item.

Councilmember Morgan stated she feels this needs to go to committee so she can better understand and answer any questions people may have.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt Resolution No. 16-1067, authorizing the Mayor to sign the Second Amendment to the Interlocal Agreement between the Cities of Maple Valley, Covington, and Black Diamond for joint public works operations and cooperative purchasing, which extends the agreement until December 31, 2020. Motion passed with all voting in favor (5-0).

Ordinance No. 16-1072, amending Black Diamond Municipal Code regarding Planning Commission qualifications

Community Development Director Kincaid discussed the proposed ordinance amends Chapter 2.24 of the Black Diamond Municipal Code regarding Planning Commission qualifications. She reported five of the seven positions needing to be replaced on the Planning Commission and during the recruitment process it was noticed there was an inconsistency in code.

She stated that in subsection B, planning commission members can reside in the community at least 180 days of the each year or be owners of a business with a physical

presence in the city. In subsection D, the "failure" of a planning commission member to either reside in or be a business owner in the city constitutes "forfeiture of office".

She noted staff is recommending that Council adopt the proposed ordinance as it retains the intent of Black Diamond Municipal Code section 2.24.010(B) by allowing planning commission members to be selected from the community, but provides better definition of the community. She added the ordinance defines community to include persons living within the city limits as well as those living in the city's urban growth area (UGA) boundary and potential annexation areas (PAA). She further added the reason for including the UGA/PAA in the definition of community is to meet the intent of the ordinance to maintain an equitable balance of geographic representation of the community.

She also discussed housekeeping changes in the Ordinance. In subsection C it is recommended to strike the word may and replace it with the word shall and the typo in subsection E to strike the word service and replace it with the word serve. Another change is to take the terms out of subsection A.

Councilmember Morgan discussed the meaning behind the word community to those who reside in Black Diamond. She also requested that this go to a committee before adopting to give the public a chance to comment.

Councilmember Weber would like to see the word community changed to city as stated by the citizens. He was curious about subsection A where it states terms expire on December 31, but members of the planning commission shall continue to serve until their successor is appointed and qualified.

A motion was made by Councilmember Deady and seconded by Councilmember Edelman to adopt Ordinance No. 16-1072, relating to the qualifications of the planning Commission, establishing that members must reside in the community at least 180 days of each calendar year or be owners of a business with a physical presence within the City, amending Black Diamond Municipal Code Section 2.24.010.

City Attorney Morris asked if changes were going to be made and if so she discussed the changes that would need to be made in the Ordinance.

In section 2.24.010(B) the sentence beginning with "members of the planning commission" it would read "Members of the planning commission shall be limited to individuals who reside in the city at least one hundred eighty days each calendar year or owners of businesses with a physical presence within the city". Eliminate the sentence that starts with "For purposes of this section" and keep the last sentence in this section. In section 2.24.010(D) in the sentence that starts with "Failure" it would say "Failure of a planning commission member to" and add the words "qualify as provided in section B shall constitute forfeiture of office" and eliminate the words "either reside in the community or be a business owner with a physical presence". She also discussed someone in the public saying the words "the City" were omitted somewhere in the document which was a typo and when the document is finalized it will be added back in.

Councilmember Deady discussed research she did on other cities regarding their Planning Commission qualifications. She also discussed changes she pushed for on the recruitment and interview process for Planning Commission members.

Councilmember Weber noted this being an important issue and would like to see a cleaned up copy of the Ordinance before voting.

Councilmember Deady commented she has no problem with changing the word "community" to "city".

Councilmember Pepper stated she regretfully can't support this ordinance at this time and she has received feedback that citizens would like to be represented by commissioners who live in Black Diamond.

City Attorney Morris recapped the proposed changes again.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to amend her motion to include the City Attorney's suggested changes.

Vote: Motion **passed** as amended with all voting in favor (5-0).

Resolution No. 16-1070, appointing a Council President

Councilmember Morgan stated placing this item on the agenda along with Councilmember Pepper. She discussed the purpose of the President of the Council is to be the focal point for the ordinances and the resolutions as they come to Council committees to sort them out. She added the Mayor Pro-Tem and the Council President would sort those as they come in and assign them to committee for review and after review they would then go forward to the Mayor in a more formalized rendition. She also added this is under development.

There was Council discussion on this issue.

A **motion** was made by Councilmember Pepper to adopt Resolution No. 16-1070 appointing a Council President.

Councilmember Pepper withdrew her motion.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to approve Pat Pepper as Council President.

Councilmember Edelman stated she believes this position is not needed on a Council of five members and does not support it.

Vote: Motion **passed** (3-2, Edelman, Deady).

Resolution No. 16-1071, appointing Standing Committee Members and Chairs

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt Resolution No. 16-1071, appointing Standing Committee Members and Chairs.

Councilmember Edelman stated these meetings violate the Open Public Meetings Act and will not attend any committee meeting where there are three Councilmembers present and does not support this.

Councilmember Deady announced she will not be attending these meetings where three Councilmembers are present and making decisions.

Councilmember Weber stated his understanding of these committees is to bring in more of the public when they are able to attend. He does not feel this would be a violation of the Open Public Meetings Act as they would be special meetings that will be noticed.

There continued to be Council discussion on this item.

City Attorney Morris discussed whether or not this is a violation of the Open Public Meetings Act and stated it is a violation because they are going to have three members taking final action and normally what you would do at these committee meetings is review them and forward to the City Council. If you do a do pass as stated in the rules you've taken final action. So there is the problem of the City Clerk who has to give special meeting notice for all the committee meetings and noted the additional staff time that will be needed and lastly you will be taking final action at a committee meeting. She noted the issue is why there are three Councilmembers on these committees – that's the problem.

Vote: Motion passed (3-2, Edelman, Deady).

Resolution No. 16-1072, initiating review of Council Rules of Procedure

Councilmember Morgan reported adoption of this resolution is to initiate a review of Council Rules of Procedure with the 1 – 7 ideas stated in the resolution being the objectives. She also noted there will be a workstudy scheduled for Council and the public.

Councilmember Deady referred to Section 2 of the proposed resolution and is concerned that two Councilmembers are surveying other Councilmembers and stated this is a violation of the Open Public Meetings Act and noted she will not be voting on this resolution.

Councilmember Edelman asked why a resolution is needed to initiate a review of Council Rules and Procedures and why isn't that a normal course of business throughout the year – there is no need for a special resolution on this. She also noted Councilmember Morgan making comments that are kind of contrary to what is being said here and noted she will not be supporting it.

City Attorney Morris commented that based on what has been said tonight along with the materials submitted she suggested that if this is to be passed, Section 2 be amended to state that someone will consult with the City Attorney and someone would also take into account the comments from the City's insurance provider, unless the new rules are also proposed to be violative of state law and will expose the Council and individuals to liability because they don't have any insurance.

A motion was made by Councilmember Pepper and seconded by Councilmember Weber to adopt Resolution No. 16-1072, initiating review of Council Rules of Procedure.

Vote: Motion passed (3-2, Edelman, Deady).

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Benson reported attending the SCATBd meeting and the Chamber luncheon.

COUNCIL REPORTS:

Councilmember Deady reported attending the Public Issues Committee meeting, the SCATBd meeting, Enumclaw School District meeting and the Chamber luncheon.

Councilmember Morgan discussed why she cancelled the January 12 joint meeting with the Planning Commission. She stated one of her colleagues on the Council was advising the public at the January 7 meeting that citizens should not come to the joint meeting because it was just for Council and planners and also stated they would not be allowed to talk, which she commented could be true. She also added not wanting to actively discourage the public from attending a properly noticed meeting.

Councilmember Edelman reported attending the Public Issues Committee meeting, SCA Networking dinner and the Chamber luncheon.

Councilmember Weber announced there is a short course in local planning at 6:30 p.m. on January 28th at the City of Covington Council Chambers.

Councilmember Pepper announced she will be attending that meeting on the January 28th, another meeting on that date in Olympia on Parliamentary and a meeting on Saturday on open government.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Gayle Loon, Seattle objected to having her address on the record as that is a violation of the Open Public Meetings Act and encouraged the Council to consider doing away with this requirement for speaking. She also discussed having three Councilmembers on a committee does not persay violate the Open Public Meetings Act. If all three do attend and conduct business I would agree that they do. She noted seeing the wisdom to assigning three to each committee, but as long as only two are present no action can be taken that would be violative of the Act. In closing she clarified the removal of agenda items that she spoke to earlier. She stated in its simplest form the Mayor cannot remove from the agenda or from discussion an item that has been brought forward by another Councilmember.

City Attorney Morris clarified that RCW 42.30.040 A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. Mayor Benson commented on needing to change this rule.

Bob Edelman, Black Diamond wondered if there was a lawsuit on the Council rules would it be on those who voted in the affirmative or does that include his wife as she voted against the proposed changes to the rules. He commented on the three resolutions that were voted in earlier and the majority supported. He hopes it doesn't mean that they had formed a committee in advance and discussed these either together or had a serial meeting on these as both would be illegal. He also noted that committee meetings have always been open to the public and sometimes the public did attend.

Brian Derdowski, talked about his days on the King County Council and applauded Council for the changes that were made tonight. He commented on them putting forth a program that takes items to the public for more input. He stated being astonished and has never witnessed an attorney who would solicit a lawsuit and build a case for it right in the public. He encouraged everyone to go to a conference on Saturday with the Coalition for Open Government. He noted the information Council has been receiving tonight is significantly incorrect and misleading. He also noted if people understood these laws (Open Public Meetings Act and Public Records Act) and are comfortable and committed to them they will be your friend and you will never allow some attorney to use it as a club to take away the power that the people vested in you. He hopes if there are any confidential memos that were unilaterally released to the City's insurance agent in order to threaten you that all of those memos are made public. He commented with his understanding of the Public Records Act and said those documents are subject to public disclosure. He discussed the public in Black Diamond needing a civics lesson on the separation of powers and the proper responsibilities of staff and attorneys and what it means for courageous people to stand up to innuendo, misleading information and intimidation and stick to their guns even though they are rookies and have never held public office before and all they bring to the party is a desire to serve the public to the best of their ability.

Judy Watson, Black Diamond commented on being upset and appalled with what happened tonight. She wondered if Councilmembers Morgan, Pepper and Weber are

working for the people of Black Diamond or are they working for a few people of Black Diamond. She discussed in 2012 people voting for a strong Mayor form of government and wished people would come to the meetings and witness what happens from people who are supposed to be representing all the citizens.

Terry Yandovich, Black Diamond also commented being appalled by what has happened with this board for the last two years and asked that citizens give these members a chance. She noted the members are not being given the respect that is due and as a new resident she would not move to Black Diamond again because of what she has seen take place in the last two years.

Brock Deady, Black Diamond wanted to make sure that the no votes are counted as Tamie Deady voted no on the first item and the last three items. He also noted the sculpture in the Chambers needing red flags so it doesn't become an accident waiting to happen.

Robbin Taylor, Black Diamond asked for a couple of extra minutes.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Weber to allow her extra minutes. Motion **passed** with all voting in favor (5-0).

Robbin Taylor, Black Diamond discussed the need to abide by the law. She also discussed the papers brought out by Councilmember Morgan and not following her own words on public participation. She commented on the discouragement of having three Councilmembers and ending up with a City Council of three seats rather than five seats. She also commented on a meeting she attended earlier this week for Save Black Diamond.

Bill McDermand, Black Diamond discussed getting Tamie Deady elected and her going south. He noted working on getting Janie Edelman elected too. He commented being disgusted with the way Janie and Carol act and asked the Council to give the new members time.

Kristen Bryant, discussed going to an informal meeting at the Bakery. She noted the only rule change that was proposed was one and who puts the committee appointments. She discussed feeling shut out in the past and is glad to see things will be getting moved to committees.

EXECUTIVE SESSION: None

ADJOURNMENT:

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to adjourn the meeting. Motion **passed** with all voting in favor (5-0).

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk

DRAFT



**CITY OF BLACK DIAMOND
POLICE DEPARTMENT**

**Inter-office
MEMORANDUM**

TO: Chief J. Kiblinger
FROM: Commander B. Martinez
DATE: January 12, 2016
SUBJECT: Nomination

I nominate Officer Bill Riepl for this term's Exceptional Employee. As a Reserve Police Officer for our department, Officer Riepl has demonstrated his willingness to be a team player by his countless hours of volunteer work. Although he has a fulltime job, he still makes himself available to provide quality police services for our community. He also has demonstrated his willingness to learn by accepting feedback from other officers and supervisors in order to make him a better police officer and to make others safer. This positive attitude and willingness to be a team player is an example of some our core values and is a reflection of his character.

Officer Riepl also writes very detailed reports and has shown a passion for traffic safety. His stats show that he has taken a pro-active approach in making the city safer by enforcing traffic laws. Officer Riepl also updated our traffic safety school program and did a fantastic job in making this program one of best in the State.

For the aforementioned attributes, I am nominating Officer Riepl for this terms exceptional employee.



**CITY OF BLACK DIAMOND
POLICE DEPARTMENT**

**Inter-office
MEMORANDUM**

TO: Chief Kiblinger
FROM: Sergeant Lynch
DATE: January 14, 2016
SUBJECT: Tri-Annual Employee Nomination

I am writing this memo as a nomination of Officer Riepl for the employee of the trimester. Recognizing Officer Riepl for just the last four months of 2015 seems lacking, when in reality for the past two years this department has been lucky enough to have a member so completely dedicated to its values and mission as Officer Riepl has been. Not only does he work patrol shifts every Friday and Saturday religiously, he is always available for department trainings, and special events in the community. Officer Riepl also issued the second highest infractions and criminal traffic citations in the department during the last four months of 2015.

I would like to specifically point out that during the last few months of the year Officer Riepl took it upon himself to completely overhaul the Black Diamond Traffic School power point. Officer Riepl improved the overall quality of the program by adding updated videos, statistics, and training content that finally made the presentation one that the officers can be proud of.

In closing I feel that Officer Riepl is more than deserving of this recognition. His willingness to wear our uniform expecting only the personal gratification of knowing he is making a difference in his community as payment should be a reminder to us all of why we all entered this profession on the first place.

Sergeant Brian Lynch
Black Diamond Police Department

The Revised Code of Washington (RCW) 35A.12.120 gives authority to City Councils to establish rules on how the City Council will conduct the business of the City.

Page 2 of the Council Rules begins with RCW 35A.11.020 (Powers vested in legislative bodies...). This section states in part "The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title...;" (Title 35A) "...and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights..."

It appears that some on this Council wish to expand the duties of the Mayor Pro Tempore. The Mayor Pro Tempore is specifically spoken to in 35A.12.065 and 35A.13.035 and the wording of each section is exactly the same. These RCWs strictly limit the power of the Mayor Pro Tempore to serving in the Mayor's stead in case of absence or temporary disability, and it is given no further power. Nowhere in any of these descriptions will you find the clause "...and other duties as assigned".

Expanded list of duties for the mayor pro tempore include:

- Preside over mayoral duties in the absence of the mayor – per RCW
- Assign Ordinances and Resolutions to the Council Standing Committees
- Approve presentations to Council
- Coordinate Standing Committee schedules with available staff
- Approve the Agenda

If you pass these new Council Rules tonight you will be in blatant violation of the RCWs and you will be acting outside the scope of the Laws of Washington State.

- Do the three Councilmembers Morgan, Weber and Pepper truly wish to begin acting outside the Law?
- Is this how you plan to govern, by passing a document which allows you to act outside of the Law? If so, what other unlawful steps do you plan on taking?
- If you vote this in, you will immediately open yourselves up personally to sanctions, fines and lawsuits, and this can include your spouse.

I cannot stress this strongly enough, you will be stepping beyond the powers given by the Revised Code of Washington and into unlawful territory. Remember, your name goes on your vote, it does not matter who coached you to vote for this, you own it. Whoever tells you that you can safely vote for this will not be the one facing those sanctions, fines and lawsuits. They will skate and you will sink.

Mayor Benson, I request when this comes to a vote, that a roll call vote be taken.

I attended the Save Black Diamond meeting Tuesday evening on Jan 19th. I was dismayed over the disingenuous manner in which the freedom of relationship between Council and the Public was characterized. It was stated more than once that the mayor will not allow Councilmembers to speak with the public. It was also stated that the Councilmembers elected four years ago never put any legislation on the agenda, and that the Council did not have much authority to run the Council.

There were three gentlemen at this meeting whom I have never seen at Council meetings. They got spun up over these statements and could not believe that citizens were being shut out of the government process by the mayor and that this could happen in Black Diamond. I was surprised that none of the other participants in this meeting, most who have sporadically attended Council meetings, did not speak up against this outright fabrication.

In the revised Council Rules it says that Ordinances and Resolutions will have a first reading at a meeting of the Council as a whole, then be assigned to a Committee for further consideration, then sent back to the Council with a "pass/do not pass" recommendation. The process described Tuesday evening was that Council Committees and the Public would meet around the table where ideas for legislation would be bounced around, refined and then sent to the Council as a whole for consideration.

While I champion every call for public participation and the "voice of the people" being heard, these meetings were characterized as an informal meeting where people sit around spit balling. But in reality they will be formal meetings governed by the RCWs and the Public will only be able to discuss what is on the agenda. Any ideas for anything not on the agenda will need to be voiced by citizens to their Councilmembers outside of a formal meeting, much like it has been done for decades.

I believe there is a "pie in the sky" feeling regarding the fact that if you "print and Agenda, they will come" and Public participation will increase. I would point out that there is an Agenda posted for every Council meeting and yet those sitting around the tables Tuesday night either do not attend, or attend sporadically. Changing meetings to the evenings and posting an Agenda is not a magic formula for increased public participation.

It appears that SBD is a group that just swallows whatever information is shoveled out to them. My hope is that the SBD group will begin to realize that those leading the meeting Tuesday night were not even being honest with the group which supports them. It is incumbent upon Citizens to find the truth about government dealings for themselves. We are the watchdogs over those we elect. But the sad truth is when we sit back and allow our elected officials to spoon feed us their version of the "truth", we absolutely end up with the kind of government we deserve.

Brenda Martinez

From: Carol Morris <carol_a_morris@msn.com>
Sent: Wednesday, January 20, 2016 4:50 PM
To: Carol Benson; Brenda Martinez
Subject: FW: Black Diamond -- confidential
Attachments: 1 Policy v admin chart and executive sessions.docx; 6 Council Evaluation 1.docx; 7 Sample Council Principals.docx; prpsed amend council rules.pdf

HI: please send the attachments and the e-mail below from Roger Neal to all of the Councilmembers. Thanks.

Carol Morris, Morris Law, P.C.

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Gig Harbor, WA 98335

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From: rogern@awcnet.org
To: carol_a_morris@msn.com
Subject: RE: Black Diamond -- confidential
Date: Thu, 21 Jan 2016 00:33:13 +0000

Carol,

Thank you for sharing with RMSA the *draft* Rules of Procedure of the City Council of the City of Black Diamond. Since you sent this to RMSA as a confidential document, I am replying only to you. If in your opinion, it is appropriate to share with other officials in the City of Black Diamond, you have our permission to do so.

In your review you raise numerous concerns about potential violations of law if the *draft* rules are adopted as presented. We concur with your concerns about the *draft* rules potentially, or actually being in conflict with state laws. Potentially knowingly violating state law by the Council raises serious concerns for RMSA, the City of Black Diamond's risk pool. If the City Council adopts these rules without making the modifications suggested, there is a good chance that in the event of a lawsuit related to the application of these Council rules, such as a violation of the Open Public Meetings Act, the RMSA will follow the provisions of the Coverage Agreement. I call your attention to Part II Section 7. EXCLUSIONS

7. EXCLUSIONS

This Agreement does not cover, and the Pool shall not be obligated to make any payment or defend any "suit" in connection with or relating to:

A. "Bodily injury" or "property damage" that:

- I. Arises out of an actual or alleged harm intentionally caused by the "covered party" or the actual or alleged willful misconduct by a "covered party" to cause "bodily injury" or "property damage." This provision applies even if the "bodily injury" or "property damage" that actually occurs is different or greater than that which was intended by the "covered party;"
- II. Arises out of an act that the "covered party" knew or should have known would more probably than not cause "bodily injury" or "property damage." This provision applies even if the "bodily injury" or "property damage" that actually occurs is different or greater than that which the "covered party" knew or should have known would be caused by the act;
- III. Arises out of sexual contact, physical abuse or molestation of any person by a "covered party," or by any "employee" of or "authorized volunteer" for a "covered party;"
- IV. Any claim or suit for damages which alleges liability or damages arising wholly or in part from any wrongful employment practice as that term is defined in Part VII of this Agreement. Coverage for such claims is excluded herein regardless of whether or not coverage is extended in whole or in part under the terms and conditions of Part V Employment Practices Liability Coverage.

However, this exclusion 'A' does not apply to:

- a. "Bodily injury" resulting from an assault or battery which a "covered party" commits for the purpose of preventing injury to persons or damage to property; or
- b. "Bodily injury" resulting from corporal punishment; or
- c. "Bodily injury" resulting from a "covered party's" acts in performance of official police duties.

However, this exception 'c.' does not apply if:

- a. The "covered party" acted maliciously;
- b. The "covered party" acted with actual knowledge that the conduct violated the injured person's civil rights; or
- c. The "covered party" knowingly acted outside the course and scope of his or her official police duties.

B. "Bodily injury" or "property damage" that:

- I. Arises out of the violation of any criminal statute, ordinance or governmental regulation, or the violation of any other statute, ordinance or governmental regulation, by a "covered" party for which a "covered party" knew or should have known
- II. Arises out of the actual or alleged violation of the Public Records Act (RCW 42.56) and/or the Open Public Meetings Act (RCW 42.30).

Actual coverage will be assessed and a determination made if the RMSA will defend the City of Black Diamond based on the actual circumstances of the suit when filed, and the Coverage Agreement terms and conditions.

RMSA has offered numerous comments and recommendations throughout the *draft* rules. In light of your concerns as the City of Black Diamond City Attorney, and RMSA's recommendations, we hope that the Council will not take final action on these rules until they have had a chance to fully digest the negative impacts of such action. RMSA is available to review future draft rules for the City of Black Diamond City Council.

Here is a summary of RMSA's other concerns with the *draft* rules.

1. There appears to be an effort to mix the roles of the Council with the roles of the Mayor and staff. Council needs to understand that their role is to set policy, and it is the Mayor's role to carry out that policy and run the day-to-day operations of the city. Many councilmembers across the state think that it is their responsibility to direct staff, and be involved with "running" the city. This is clearly not the case, and the statutes are very clear about the need for separation of powers within a city.
2. I've attached a one page summary that shows the separation of powers between the policy makers and the administration. I've also attached two other documents that might be beneficial for the Council.
3. RMSA is concerned about the structure of all the Standing Committees, as they appear to be functioning on behalf of the Council.
4. RMSA is concerned about how the *draft* rules were developed. If they were developed independently by three or more Council members their actions in developing these rules may have been in violation of the Open Public Meetings Act.
5. The section on executive sessions is weak. As you know, too many Councils approach executive sessions as a way to not have the tough discussion/decisions made in Open Public Meeting. Councils need to remember that the OPMA is to be liberally construed and there are a limited number of exceptions to the OPMA where a council can go legally into executive session.

MRSC's publication Mayor Council Handbook is a great resource and every elected official should have their own copy. It also has a great example of Sample City Council Rules of Procedure for Mayor-Council Code Cities such as Black Diamond. The entire publication can be accessed at:

<https://www.awcnet.org/Portals/0/Documents/Publications/MayorCouncilmemberHandbook.pdf>. MRSC's publication Knowing the Territory is also a great free resource for cities.

RMSA is available to provide training in the basic Public Officials Principles covering such topics as the role of the Council the role of the administration, OPMA, executive sessions, meeting dynamics.

Let me know if you have any other questions.

Roger Neal

RMSA Program Manager

Member Pooling Programs

Association of Washington Cities

Disclaimer: Public documents and records are available to the public as provided under the Washington State Public Records Act (RCW 42.56). This e-mail may be considered subject to the Public Records Act and may be disclosed to a third-party requestor.

From: Carol Morris [mailto:carol_a_morris@msn.com]

Sent: Tuesday, January 19, 2016 3:06 PM

To: Roger Neal <rogern@awcnet.org>; Lynda Hummel, CPCU, ARM <lyndah@awcnet.org>

Cc: bmartinez@ci.blackdiamond.wa.us; cbenson@ci.blackdiamond.wa.us

Subject: Black Diamond -- confidential

Good afternoon: Three Black Diamond Councilmembers have proposed that the City amend the Council rules (attached). I have identified some problems with these amendments in a confidential memo (also attached).

I discussed this with the Mayor, and she asked me to forward this to you so that you could provide us with information on the issue whether, if the amendments were adopted, the City's insurance coverage might be affected by these amendments. This is a very long memo, so I highlighted the sections that I thought which would be of most interest to you.

The three Councilmembers asked that this be adopted in a special meeting last week and because that was unsuccessful, they now ask that this be on the Council agenda for this Thursday. In other words, time is of the essence!

Thanks for your help.

Carol Morris, Morris Law, P.C.

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carol@carolmorrislaw.com

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**BLACK DIAMOND SPECIAL JOINT
CITY COUNCIL/PLANNING COMMISSION MEETING MINUTES
March 8, 2016**

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the special joint meeting of the Council and Planning Commission to order at 6:34 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Edelman, Weber and Pepper.
Planning Commissioners McCain, Davis, Ambur, Senecal, Ammons, LaConte and Ekberg.

ABSENT: Councilmember Morgan who entered the meeting at 6:46 p.m.

Staff present were: Barbara Kincaid, Community Development Director and Brenda L. Martinez, City Clerk.

WORK SESSION:

City's Comprehensive Plan Update

Mayor Benson stated she received some revisions on the Vision statement from Councilmember Morgan, however she does not want to move backwards and would like to keep moving forward and stick to the meeting agenda.

Community Development Director Kincaid discussed the material Council has tonight for this meeting; Vision statement revisions from Councilmember Morgan, survey results and revisions from the chapters that were reviewed at the last meeting.

Chapter 4 - Natural Environment Element and Appendix

Community Development Director Kincaid discussed how the information is gathered for this update. She also noted the local information is really important too. She noted the important part of this information is ending up with a land use map that needs to be changed based on the baseline conditions and trends. It's important to look at the streams, lakes, the drainage basins, and soils when making policy decisions. We need to know the land and that's what this exercise is about.

Community Development Director Kincaid said the overarching vision goals are 1) retain the City's natural environment and scenic beauty and 2) encourage development in areas where natural systems present the fewest environmental

constraints while exercising responsible stewardship over natural resources and amenities.

Councilmember Morgan entered the meeting 6:46:07 p.m.

Councilmember Edelman is curious about the numbering on 4.2.5 (figure 4-6 reference should actually be 4-7).

Commissioner Senecal said Policy NW-11 references WRIA 09 plans and wonders where that is.

Councilmember Morgan explained how the rivers are divided up and the Green-Duwamish is No. 9.

Commissioner Senecal noted he would like to see included a WRIA 9 map, explanation and a summary of their goals. There was a consensus on this.

Commissioner Ambur inquired as to the Sensitive Area Maps.

Director Kincaid explained the City's sensitive areas ordinance regulates land use and development consistent with this chapter. She discussed the goals and the need to make the map figure clearer (figure 4-4).

Councilmember Weber asked that industry used acronyms be added and bring a glossary.

Commissioner Senecal asked is there a definition for a minimum of a corridor in the WAC.

4.1 Introduction and 4.2 Sensitive Areas – Consensus is ok

4.2.1 General Sensitive Areas Policies – Designate and protect the City's sensitive areas.

Policy NE-1 – Use best available science to preserve and enhance the functions and values of sensitive areas through policies, regulation programs, and incentives. - Consensus is ok

Policy NE-2 – Initiate a stewardship program to encourage private landowners to manage their land in ways that support the preservation of sensitive areas. This program would seek to acquire long-term commitments of private landowners to the conservation of sensitive areas. - Changes are noted as follows. Commissioner McCain discussed Policy NE-2 adds another layer and oversight and what are the ramifications of this. She would like to see the second sentence stricken. – Consensus to do this. Councilmember Morgan also stated it needs to add “and the buffers”.

Policy NE-3 – Encourage the use of creative and appropriate site design and housing types to balance environmental protection and achievable density. - Consensus is ok

Policy NE-4 – Encourage clustering and density transfers for both commercial and residential development to help retain significant natural features and sensitive areas as

open space. Councilmember Morgan proposed changes to this policy. Director Kincaid noted she feels Councilmember Morgan is saying the policy is too vague and would like to see it consider the fragmentation and bio-diversity.

Commissioner Ambur suggested taking out the word help in that sentence.

Director Kincaid stated after the word development say “to retain significant natural features, habitat, and sensitive areas as open space.” – Consensus is ok

Policy NE-5 – Coordinate with adjacent jurisdictions and tribes to identify, protect, and develop enhancement plans and actions for habitat networks and wetlands that cross jurisdictional lines. - Consensus is ok

4.2.2 Wetlands Policies Director Kincaid will check on Erika’s statutory reference early.

Goal – Protect wetlands as ecosystems, and essential elements of watersheds. – Consensus is ok

Policy NE-6 – Conserve areas of native vegetation that connect wetlands systems, through incentives and non-regulatory means. Changes are noted as follows. Adding the word regulation before incentives. – Consensus is ok

Policy NE-7 – Ensure wetlands are able to fulfill their natural functions as recipients of floodwaters and as a habitat for wildlife through the critical areas ordinance. Changes are noted as follows. Replacing the word critical with sensitive. – Consensus is ok

4.2.3 Fish and Wildlife Conservation Area Policies

Goal – Promote preservation of fish and wildlife habitats. – Consensus is ok

4.2.4 Geologically Hazardous Areas Policies

Councilmember Weber is concerned with what happened in Oso and wants to make sure that in the update the city is doing everything they can to avoid an Oso event.

Councilmember Morgan stated we should expand hazardous areas to include sink holes, coal mines have been burning and the water is heated so it is a problem for the fish. Certain amount of methane gas as well.

There was discussion regarding having a city wide survey of the coal mines in the city.

Policy NE-16 – Permit development in geologic hazard areas where it can be demonstrated that conditions can be stabilized through engineering or structural solutions. Changes are noted as follows. Commissioner Ekberg suggested adding language to require this - “required conditions shall be stabilized.” – Consensus is ok

Policy NE-17: Minimize areas of vegetation loss and grading disturbance to protect water quality and prevent erosion, when developing on moderate and highly erodible soils. – Consensus is ok

4.2.5 Critical Aquifer Recharge Areas Policies

Fix figure number (needs to be 4-7) and add acronym.

Goal – Protect the quality and quantity of groundwater used for public water supplies. – Consensus is ok

Policy NE-18: Encourage the reduction of the use of pesticides and chemical fertilizers to the extent feasible and identify alternatives that minimize risk to human health and the environment.

Policy NE-19: Reduce the rate of expansion of impervious surface in the City. – Add on the end “consistent with federal, state & local regulations”.

4.2.6 Frequently Flooded Areas Policies

Goal – Reduce flood related financial and public safety impacts. – Consensus is ok

Policy NE-21: Minimize the alteration of natural surface water features that retain or carry floodwaters and prevent land alterations that would increase potential flooding. – Add “by man or wildlife” – Director Kincaid will check into this.

Policy NE-22: Seek to meet regulatory standards for floodplain development as these standards are updated for consistency with relevant federal requirements including those related to the Endangered Species Act. – Commissioner Ekberg suggested “to meet or exceed” expand to federal, state and local. – Consensus is ok

4.3 Climate Change

Goal – Recognize the value of ongoing preparation and planning climate change impacts. – Consensus is ok

Policy NE-25: Promote energy consumption and maximize energy efficiency with programs and educational initiatives aimed to “reduce, re-use, and recycle” at individual and community-wide levels. – Change consumption to conservation.

4.4 Air Quality

Goal – Identify and reduce or eliminate sources of air pollution. - Ok

4.5 Water Quality

Goal – Ensure the long term protection of the quality and quantity of groundwater resources within the City. – **Needs to add something that protects surface water.**

Policy NE-33: The City should encourage low impact development approaches for managing stormwater to protect water quality by controlling pollutants and minimizing flooding and erosion. – **Should say “practices” not “should encourage”.**

4.6 Native Vegetation

Goal – Preserve trees and native vegetation to protect habitat and ecological functions.

Policy NE-38: Encourage removal of invasive species as a significant threat to native ecosystems. – **Need to add “noxious”.**

Community Development Director Kincaid reported the next joint meeting on the Comprehensive Plan update will be April 12, 2016.

Appendix Changes –

- Mayor Benson stated on Page 2, paragraph 6 and top of page 4 referred to changing Oak Lake with Lake Marjorie in parenthesis. Councilmember Edelman asked also on that paragraph to check inventory section against Comp plan.
- Councilmember Weber asked to change impoundments on page 1 to depressions.
- Mayor Benson stated page 3, first paragraph needs to add sun fish, bass and triploid trout.
- Councilmember Morgan said on page 3 regarding Black Diamond bullet – Second paragraph needs to be changed.
- Councilmember Edelman page 7 WRIA 9 under Lake Sawyer bullet. Wants to know when the WRIA 9 map was updated. Also asked to change on page 7 to the Lake Sawyer bullet and say may not be possible during the summer (or the dry season).
- Mayor Benson stated on page 8, Crips Creek bullet the location needs to be noted as Auburn.
- Mayor Benson said page 9 needs to have something about Lawson Hills in erosion and need to do some investigating to see what need to be included in this section.
- Councilmember Weber asked on page 9 regarding natural gas explorations – can we include a paragraph about exploratory drilling site.
- Councilmember Ambur asked on page 9 to change “rill” to “rocky” landslide.
- Mayor Benson referred to top paragraph of page 11 needs to include septic systems in the east area served by Soos Creek.
- Mayor Benson also pointed out the top paragraph of page 16 to change Roberts Road to Roberts Drive.

ADJOURNMENT:

The meeting was adjourned at 8:52:10 p.m.

ATTEST:

Carol Benson, Mayor

Meri Jane Bohn, Deputy City Clerk

DRAFT

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute an agreement with ReturnMeds for the medicine return program through the Police Department	Agenda Date: April 7, 2016	
	AB16-022A	
	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barb Kincaid	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
Cost Impact (see also Fiscal Note): \$	Police – Chief Kiblinger	X
Fund Source: --	Public Works – Seth Boettcher	
Timeline:	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Agreement		
SUMMARY STATEMENT: In 2013, the King County Board of Health passed a rule and regulation to create a drug take-back system for King County residents. The goal of the take-back program is to protect public health and the environment by reducing the amount of medicines available for misuse and keeping waste medicines out of waterways and water supplies. In October 2015, King County approved ReturnMeds as the only standard plan for King County. This agreement would allow for an establishment of a convenient, safe, secure and environmentally sound medicine return program for unwanted medicines from households through ReturnMeds, a pharmaceutical collection and disposal program that covers the cost of collection, transportation, and hazardous waste disposal, and does not rely on government funding. FISCAL NOTE (Finance Department): There is no cost to the city for this program other than staff time, which is budgeted and minimal. Designated staff are responsible for installing and removing the inner liners from the ReturnMeds Kiosks.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. (Clerk will assign at adoption), authorizing the Mayor to execute an agreement with ReturnMeds in support of a secure, convenient medicine return program to reduce the public safety and environmental impacts of unwanted medicines.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
March 17, 2016	Sent to Committee	
April 7, 2016		

RESOLUTION NO. 16-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH RETURNMEDS IN SUPPORT OF A SECURE, CONVENIENT MEDICINE RETURN PROGRAM TO REDUCE THE PUBLIC SAFETY AND ENVIRONMENTAL IMPACTS OF UNWANTED MEDICINES

WHEREAS, each day, 44 people in the United States die from overdose of prescription painkillers; and

WHEREAS, 54.2% of prescription drug users get them free from a friend or relative; and

WHEREAS, prescription medicines are the drug of choice among 12 and 13 year olds; and

WHEREAS, unwanted medicines left in the home could increase opportunities for drug abuse, drug diversion, and accidental poisoning; and

WHEREAS, the City of Black Diamond desires to provide a location for the collection of unwanted and/or waste pharmaceuticals for its citizens; and

WHEREAS, ReturnMeds has elected to operate a pharmaceutical collection and disposal program in Black Diamond; and

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

Section 1. The City Council hereby supports the establishment of a convenient, safe, secure and environmentally sound medicine return program for unwanted medicines from households through ReturnMeds, a pharmaceutical collection and disposal program that covers the cost of collection, transportation, and hazardous waste disposal, and does not rely on government funding.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS _____ DAY OF _____, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

MASTER SITE COLLECTION AGREEMENT

THIS RETURNMEDS MASTER SITE COLLECTION AGREEMENT (“**Master Agreement**”) is dated as of _____ (the “**Effective Date**”), and is between ReturnMeds LLC (“ReturnMeds”), a Delaware company with its principal place of business at 1000 Parkwood Circle, Suite 200, Atlanta, Georgia 30339, and the City of Black Diamond, a Washington municipal corporation located at 25510 Lawson Street, Black Diamond, WA 98010 (“**Collector**” or “**you**”).

RECITALS

A. WHEREAS, ReturnMeds has elected to operate pharmaceutical collection and disposal programs in King County, Washington, and potentially other jurisdictions in the future;

B. WHEREAS, ReturnMeds engages third parties to serve as locations within these programs where unwanted and/or waste pharmaceuticals may be deposited, by ultimate users, in onsite, secure kiosks provided by ReturnMeds for later disposal;

C. WHEREAS, ReturnMeds promotes participating third-party collection locations on its website and encourages individuals to deposit unwanted and/or waste pharmaceuticals at such locations; and

D. WHEREAS, Collector desires to provide locations at which unwanted and/or waste pharmaceuticals may be deposited in ReturnMeds’ kiosks pursuant to the pharmaceutical stewardships laws in effect in the jurisdictions in which those locations are located;

NOW, THEREFORE, in consideration of the promises and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS.

For purposes of this agreement, the following definitions apply:

(a) “**Agreement**” means this Master Agreement and any Exhibit attached hereto and incorporated herein.

(b) “**Collection Location(s)**” means the location(s) specified on Exhibit C to this Agreement where Eligible Depositors may deposit Covered Drugs at ReturnMeds Kiosks for pickup by Designated ReturnMeds Transporter(s). Collection Locations may include Long-Term Care Facilities.

(c) “**Covered Drugs**” means, for each Covered Territory, the pharmaceuticals governed by the Pharmaceutical Stewardship Law of that Covered Territory, as indicated in Exhibit A under that Covered Territory’s name.

(d) “**Eligible Depositors**” means, for each Covered Territory, the individuals and entities eligible under the Pharmaceutical Stewardship Law of that Covered Territory to deposit Covered Drugs at a Collection Location, as indicated in Exhibit A under that Covered Territory’s name.

(e) “**Covered Territory**” means a Territory listed in Exhibit A.

(f) “**Designated Collector Employees**” means employees of a Collector who are trained regarding the proper oversight and use of the ReturnMeds Kiosks and who: (i) prepare deposited Covered Drugs for pickup by Designated ReturnMeds Transporters; and/or (ii) supervise the pickup of Covered Drugs from a Collection Location(s).

(g) “**Designated Employees**” means Designated Collector Employees and/or Designated LTCF Employees, as determined by the context of its use.

(h) “**Designated LTCF Employees**” means employees of a Long-Term Care Facility who are trained regarding the proper oversight and use of the ReturnMeds Kiosks and who: (i) along with Designated Collector Employees, prepare deposited Covered Drugs for pickup by Designated ReturnMeds Transporters; and/or (ii) along with Designated Collector Employees, supervise the pickup of Covered Drugs from a Long-Term Care Facility.

(i) “**Designated ReturnMeds Transporters**” means the third parties responsible for picking up Covered Drugs from Collection Locations in the Covered Territory(ies) and transporting the Covered Drugs for disposal.

(j) “**Inner Liner**” means an inner liner within a ReturnMeds Kiosk used for the collection of Covered Drugs.

(k) “**Laws**” means any and all federal, state, and local laws, rules, regulations, orders, and ordinances, including but not limited to any U.S. Drug Enforcement Agency regulations and any Pharmaceutical Stewardship Laws enacted by a Covered Territory concerning or relating to the collection, handling, transport, and/or disposal of pharmaceuticals.

(l) “**Long-Term Care Facility**” means a long-term care facility at which Collector is authorized under applicable Laws to have a ReturnMeds Kiosk installed for Eligible Depositors to dispose of Covered Drugs.

(m) **"Pharmaceutical Stewardship Law"** means a law governing the collection and disposal of pharmaceuticals.

(n) **"Regulated Stewards"** means an entity responsible under a Pharmaceutical Stewardship Law for the collection and disposal of Covered Drugs.

(o) **"ReturnMeds Kiosk"** means a secure pharmaceutical collection receptacle provided by ReturnMeds at a Collection Location during the Term of this Agreement and used by Eligible Depositors to deposit Covered Drugs at that Collection Location.

(p) **"ReturnMeds Website"** means the collection of web pages accessible via the Internet at <http://www.call2recycle/returnmeds.org>.

(q) **"Stewardship Plan"** means a Covered Territory-specific pharmaceutical collection and disposal plan developed by ReturnMeds on behalf of Regulated Stewards to meet the requirements of that Covered Territory's Pharmaceutical Stewardship Law and submitted to the governmental entity responsible for review, approval, and/or oversight of the plan in accordance with that Covered Territory's Pharmaceutical Stewardship Law.

(r) **"Stewardship Program"** means a Covered Territory-specific pharmaceutical collection and disposal program operated by ReturnMeds on behalf of Regulated Stewards in accordance with an approved Stewardship Plan.

(s) **"Term"** means an Initial Term or a Renewal Term, as those terms are defined in Section 5 of this Agreement.

(t) **"Territory"** means a specific State, county, or city located within the fifty (50) United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Province of Canada, in which ReturnMeds operates a Stewardship Program.

2. COLLECTOR SERVICES AND RESPONSIBILITIES.

(a) Collector shall allow ReturnMeds to install ReturnMeds Kiosks containing Inner Liners at each Collection Location listed in Exhibit C in secure, controlled locations acceptable to both Collector and ReturnMeds and in accordance with all Laws, including but not limited to DEA regulations at 21 C.F.R. Part 1317. Each ReturnMeds Kiosk shall remain at the Collection Location at which it is installed and be available to Eligible Depositors to dispose of Covered Drugs for the entirety of each Term of this Agreement unless agreed to otherwise in writing by both Parties.

(b) Collector shall allow Eligible Depositors in the Covered Territory(ies) to deposit Covered Drugs in the ReturnMeds Kiosks during regular business hours.

(c) Collector shall use reasonable efforts to prevent anyone other than Eligible Depositors to deposit Covered Drugs into the ReturnMeds Kiosks.

(d) Collector shall not charge Eligible Depositors any fees to deposit Covered Drugs into the ReturnMeds Kiosks.

(e) Collector shall make every reasonable effort to not allow anything other than Covered Drugs to be deposited into the ReturnMeds Kiosks.

(f) Collector shall ensure the proper training of Designated Employees regarding the installation, oversight, use and removal of ReturnMeds Kiosks and Inner Liners.

(g) Collector shall periodically inspect the ReturnMeds Kiosks to monitor general wear and tear and shall promptly inform ReturnMeds if the ReturnMeds Kiosks are in need of maintenance or repair.

(h) Collector hereby acknowledges that ReturnMeds will provide shipping containers and labels for the pickup and disposal of Covered Drugs on behalf of Regulated Stewards participating in a Stewardship Program in one or more Covered Territory(ies). Upon request, Collector shall provide ReturnMeds and/or its Regulated Stewards with any information they reasonably require to demonstrate compliance with applicable Laws.

(i) Each installed ReturnMeds Kiosk shall remain under the sole control and custody of Collector for the entire Term of this Agreement. Collector shall comply with the procedures in Exhibit B to this Agreement regarding the operation and security of the ReturnMeds Kiosks and the handling and removal of Covered Drugs from ReturnMeds Kiosks and/or Collection Locations.

(j) Collector shall comply with all applicable Laws in the performance of its obligations under this Agreement.

(k) Collector shall operate its Collection Locations in compliance with all applicable Laws.

(l) Collector agrees that ReturnMeds may list the Collection Locations on the ReturnMeds Website. ReturnMeds may make use of Collector's brand names and/or logos, if any, in statements related to a Stewardship Plan or Stewardship Program that appear on the ReturnMeds Website and/or other print and electronic materials, including, but not limited to, banners, brochures, and press releases pertaining to that plan or program, *provided*, however, that such statements shall not assert or imply that Collector is participating in a Stewardship Plan or Stewardship Program that is not indicated on **Exhibit A**, which is attached hereto and incorporated into this Agreement.

3. RETURNMEDS RESPONSIBILITIES.

(a) ReturnMeds will install ReturnMeds Kiosks containing Inner Liners at Collection Locations at a time mutually agreeable to the Parties. The ReturnMeds Kiosks will be installed in accordance with: (i) the requirements of this Agreement; (ii) the Stewardship Program for the Covered Territory in which the ReturnMeds Kiosk is located; and (iii) all applicable Laws, including but not limited to 21 C.F.R. Part 1317.

(b) ReturnMeds will:

(i) upon installation of a ReturnMeds Kiosk at a Collection Location, promptly publish that Collection Location on the ReturnMeds Website. ReturnMeds shall promptly update the ReturnMeds Website to reflect any changes to the Collection Locations; and

(ii) if required by a Covered Territory, inform the regulatory agency responsible for implementing the Covered Territory's Pharmaceutical Stewardship Law that the Collection Location(s) is/are part of the Stewardship Program in the Covered Territory.

(c) ReturnMeds will provide training to Designated Employees regarding the proper oversight and use of the ReturnMeds Kiosks and the installation and removal of Inner Liners.

(d) ReturnMeds shall use its best efforts to ensure that the Designated ReturnMeds Transporter(s):

(i) complies with the procedures in Exhibit B to this Agreement regarding the transportation of Covered Drugs to an approved destruction facility.

Notwithstanding section 3(d)(i) above, the Designated ReturnMeds Transporter(s) may refuse to pick up Covered Drugs if the Inner Liner is not prepared for pickup in accordance with Exhibit B and any applicable Law.

(e) ReturnMeds shall arrange for all Covered Drugs that are picked up from Collection Location(s) to be disposed of in accordance with all applicable Laws.

(f) ReturnMeds and ReturnMeds Transporters shall comply with all applicable Laws in the performance of its obligations under this Agreement.

4. HANDLING FEES.

ReturnMeds shall not be obligated to pay Collector any fees for any activities described by this Agreement.

5. DURATION AND TERMINATION OF AGREEMENT.

(a) This Agreement shall be in effect from the Effective Date through the end of the second calendar year following the first anniversary of the Effective Date (the "Initial Term"). The agreement shall be automatically renewed annually thereafter on a calendar year by calendar year basis (each a "Renewal Term") unless terminated as provided in subsection (b) below. Either Party may decline to renew this Agreement, with or without cause, by providing to the other Party at least ninety (90) calendar days' written notice prior to the expiration of the Term then in effect a notice of non-renewal.

(b) This Agreement may be terminated at any time as provided below:

(i) By mutual agreement of the Parties; *provided*, however, that no such agreement shall be valid unless it is in writing and is signed by both Parties;

(ii) By either Party pursuant to Section 11; and

(i) By either Party following ten (10) calendar days' written notice in the event that:

(A) the other Party commits a material breach of this Agreement, and that breach is not cured within thirty (30) calendar days after that Party has received written notice of the breach;

(B) A proceeding is filed by or against the other Party under any chapter of the federal bankruptcy laws;

(C) A trustee or receiver is appointed for the other Party; or

(D) If the other Party is privately held, there is a change of ownership of the other Party.

(c) If this Agreement expires or is terminated for any reason, the provisions relating to confidentiality, governing law, dispute resolution, jurisdiction, indemnification, and liability shall remain in effect.

7. INDEMNIFICATION.

(a) Each Party (an "Indemnifying Party") shall indemnify and hold harmless the other Party and its successors, assigns, directors, officers, employees, agents, and representatives (the "Indemnified Party") from and against any and all liabilities, demands, causes of action, lawsuits governmental agency actions, losses and damages of all kinds, fines, penalties, costs and expenses, as well as any and all claims

for any of the foregoing, including, but not limited to, reasonable attorneys' fees and costs of court, arising from or relating to the Indemnifying Party's negligence or willful misconduct.

(b) The Indemnifying Party shall (i) defend at its own cost and through counsel of its own choice or (ii) settle, subject to the approval of the other Party, such approval not to be unreasonably conditioned, withheld or delayed, any actions or suits against the other for which it is responsible hereunder and shall reimburse the other for reasonable attorneys' fees, interest, costs of suit, and all other expenses incurred by the other in connection therewith.

(c) The Indemnified Party shall (i) provide the Indemnifying Party with prompt written notice of any claim, suit, or proceeding for which the indemnified Party is seeking indemnity, and (ii) reasonably cooperate with the defense or settlement negotiations, as the case may be, conducted by the Indemnifying Party.

(d) Except as otherwise set forth in this Agreement, each party will assume liability for itself, for its employees and agents, and for any injury to persons or property resulting in any manner from the conduct of its own operations.

(e) Nothing in this Section 7 shall bar any legal remedies that either Party may have against the other Party for failure to fulfill obligations arising under this Agreement.

8. LIMITATION OF LIABILITY.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES ARISING OR ALLEGED TO ARISE OUT OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR CUSTOMER GOODWILL, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. TITLE TO COVERED DRUGS.

Title to Covered Drugs and any other materials deposited at ReturnMeds Kiosks shall remain with Collector until removed from ReturnMeds Kiosks by the Designated ReturnMeds Transporter(s).

10. DISPUTE RESOLUTION.

(a) If either Party wishes to inform the other Party of a dispute arising under or connected with this Agreement, the Party will promptly notify the other Party in writing of the dispute. The Parties will seek to resolve the dispute informally.

(b) If the dispute has not been resolved informally within thirty (30) calendar days after the receipt of written

notice either party may file a lawsuit to enforce this Agreement in Pierce County Superior Court, Pierce County Washington. The prevailing (or substantially prevailing party shall be reimbursed by the other party for its reasonable attorneys' fees, expert witness fees and costs. ,

(c) Nothing in this Agreement limits your right or the right of ReturnMeds to seek a preliminary injunction against the other Party pending the resolution of the dispute or lawsuit.

11. ASSIGNMENT.

This Agreement and any or all of ReturnMeds' obligations hereunder may be assigned by ReturnMeds to any successor entity(ies). This Agreement may not be assigned by you other than to an entity controlled by or in common control with you.

12. UNFORESEEN OCCURRENCES.

Any delay or failure by either Party in the material performance of its obligations arising under this Agreement shall be excused if and to the extent the failure is due to a cause or causes beyond the reasonable control of the Party ("Force Majeure"); *provided*, however, that the Party affected by Force Majeure must give the other Party prompt written notice of the delay and must be diligent in attempting to remove such cause or causes. Force Majeure includes, but is not limited to, acts of God, strikes, action of regulatory agencies, fire, flood, wind storm, explosion, riot, war, and sabotage. If the Force Majeure is not rectified within sixty (60) calendar days of written notice, Collector or ReturnMeds (as the case may be) may terminate this Agreement. Such termination of the Agreement will be effective thirty (30) calendar days after Collector or ReturnMeds provide written notice of such termination.

13. NO AGENCY.

Collector is not the agent of ReturnMeds for any purpose. ReturnMeds is the agent of Collector for any purpose. Nothing in this Agreement shall be interpreted to create such an agency relationship between the Parties. Neither ReturnMeds nor Collector shall represent that either Party is an agent of the other Party.

14. AUTHORITY.

By executing this Agreement, each signatory represents that the entity on behalf of which he or she is signing is authorized to be bound by it, and that he or she has authority to bind that entity for purposes of this Agreement.

15. NOTICE.

Any notice required under this Agreement must be in writing and delivered by hand, by certified or registered mail with the proper postage and return receipt requested, by a nationally-recognized overnight delivery service, or by confirmed electronic delivery. These notices must be sent to a Party at the address set forth below, unless that Party has provided a new address in writing:

TO RETURNMEDS:

Roxane Peggs
ReturnMeds LLC
1000 Parkwood Circle
Suite 200
Atlanta, GA 30334
Phone: 678-419-9900
Fax: 678-419-9986
Email: rpeggs@call2recycle.org

TO CUSTOMER:

Customer Name:

Mayor Carol Benson
City of Black Diamond
15510 Lawson Street
Black Diamond, WA 98010
Email: cbenson@ci.blackdiamond.wa.us

Notice shall be deemed effective only when it has been received by the intended recipient, or when the intended recipient refuses receipt. Either Party may change the notice address by following the procedure established by this Section.

16. CONFIDENTIALITY.

Neither Party shall, without the other Party’s prior written consent, at any time (i) use any confidential information for any purpose other than in connection with this Agreement, or (ii) disclose any portion of any confidential information to third parties except as may be required by law or except disclosure to auditors, attorneys, accountants or consultants retained by a Party in the course of business who agree to be bound by confidentiality obligations such as those provided in this Agreement. If a Party is required to disclose any confidential information pursuant to an order or requirement of a court, administrative agency, or other governmental body, the Party shall provide prompt written notice of such order or requirement to the other Party so that the other Party may seek a protective order, and the Disclosing Party shall use reasonable efforts to cooperate

with the other Party in its efforts to obtain a protective order.

17. CONSTRUCTION, MODIFICATION, AND INTERPRETATION OF AGREEMENT.

(a) This Agreement shall be interpreted pursuant to the laws of the State of Washington and shall be deemed to have been entered into in the State of Washington.

(b) No modification of this Agreement shall be valid unless it is in writing and is signed by the duly authorized representatives of both Parties. No waiver of any provision of this Agreement shall be valid unless it is in writing and is signed by the Party against whom it is sought to be enforced. The failure of any Party at any time to insist upon strict performance of any condition, promise, agreement, or understanding set forth in this Agreement shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of the same or any other condition, promise, agreement, or understanding at a future time.

(c) Each Party hereto irrevocably consents to the jurisdiction of Pierce County Superior Court, Pierce County, Washington, or the federal court of the Western District of Washington, Tacoma, WA, in connection with any action by ReturnMeds arising out of or relating to this Agreement. In any such action, each Party waives personal service of any summons, complaint, or other process and agrees that the service thereof may be made by certified or registered mail directed to the Party at its address as set forth herein. Each Party also irrevocably waives any objection to the lack of venue of any action by ReturnMeds arising out of this Agreement in the courts listed above., and irrevocably waives and agrees not to plead or claim in any such court that any such action brought in any such court has been brought in an inconvenient forum.

(d) In the event that any particular provision of this Agreement is found to be invalid or unenforceable, it is the intent of the Parties that the Agreement be construed or reformed to the fullest extent possible so as to conform to the manner in which it was originally intended to operate.

(e) This Agreement may be executed in identical counterparts which, taken together, shall be considered a single instrument.

(f) The headings and captions contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The use of the word “including” herein shall mean “including without limitation.”

IN WITNESS THEREOF, the parties are signing this agreement as of the Effective Date set forth above.

ReturnMeds:

ReturnMeds LLC
1000 Parkwood Circle, Suite 200
Atlanta, GA 30339

By: _____
Printed Name: _____
Title: _____
E-mail: _____

COLLECTOR:

Corporate Name: _____
Corporate Address: _____

By: _____
Printed Name: _____
Title: _____
E-Mail: _____

Exhibit A

Covered Territory	Pharmaceutical Stewardship Law	Covered Drugs	Eligible Depositors	Collection Locations
King County, Washington	King County Board of Health Secure Medicine Return Regulations, Chapter 11.50 of the King County, Washington, Board of Health Code	"Covered Drugs" as defined in Section 11.50.030(B) of the King County, Washington, Board of Health Code	"Covered Entities" as defined in Section 11.50.030(C) of the King County, Washington, Board of Health Code	

Exhibit B

PROCEDURES FOR HANDLING AND REMOVAL OF COVERED DRUGS

1. Each ReturnMeds Kiosk provided by ReturnMeds will include Inner Liners for the collection of Covered Drugs that meet all U.S. Drug Enforcement Administration requirements governing the disposal of Covered Drugs, including but not limited to the requirements in 21 C.F.R. Part 1317. Each individual Inner Liner provided to a Collector will have a unique ID number. The Parties shall document the ID numbers of the Inner Liners received by Collector from ReturnMeds.
2. Employees of Designated Collectors shall install and/or remove Inner Liners from ReturnMeds Kiosks. At least two Designated Collector Employees shall supervise such installation and/or removal, except that one Designated Collector Employee and one Designated LTCF Employee (together, "**Co-Designated Employees**") may install and/or remove or supervise such installation and/or removal of Inner Liners at Long-Term Care Facilities.
3. All Inner Liners containing deposited Covered Drugs shall be sealed immediately upon removal from a ReturnMeds Kiosk by at least two Designated Collector Employees or, at a Long-Term Care Facility, by Co-Designated Employees.
4. If Designated Collector Employees or Co-Designated Employees remove and seal an Inner Liner containing Covered Drugs from a ReturnMeds Kiosk before a Designated ReturnMeds Transporter arrives at a Collection Location for pickup, they shall document the removal and sealing of the Inner Liner and indicate the unique ID number of the Inner Liner and the date and time of removal. They shall also: (i) install a new Inner Liner in the ReturnMeds Kiosk and document such installation by indicating the unique ID number of the Inner Liner and the date and time of installation; (ii) ensure that the ReturnMeds Kiosk is properly secured after installation of the new Inner Liner; and (iii) ensure that sealed Inner Liners containing Covered Drugs are properly stored, all in accordance with U.S. DEA regulations and all other applicable Laws, before pickup by a ReturnMeds Transporter.

Exhibit C

Locations included on this Master Site Collection Agreement:

Black Diamond Police Department
25510 Lawson Street
Black Diamond, WA 98010

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: April 7, 2016	AB16-023A
Resolution authorizing the Mayor to sign a contract with PumpTech, Inc. to supply and install a new 12 pound per day On-Site Sodium Hypochlorite Generation System	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barb Kincaid	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$61,175	Public Works – Seth Boettcher	X
Fund Source: WSFFA Partners	Court – Stephanie Metcalf	
Timeline: Spring 2016		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Small Works Contract; PumpTech Bid Proposal is exhibit A to the contract		
<p>SUMMARY STATEMENT:</p> <p>The existing on-site chlorine sodium hypochlorite generation system, which injects the City's water supply with chlorine, is beyond its useful life and is incapable of producing enough chlorine for higher daily pumping levels. This need was recognized and included as subset of the Springs Reconstruction project, W1 in the City's Capital Improvement Plan.</p> <p>The City advertised and received bid proposals from three different vendors. Upon review of the bid proposals the staff is recommending the award of the project to PumpTech, Inc.</p> <p>FISCAL NOTE (Finance Department):</p> <p>The upgrade of the chlorine system is included in the City's Springs Reconstruction project, which is funded by Oak Pointe, Inc. and Palmer Coking Coal as agreed to in the City's Water Supply and Facilities Funding Agreement (WSFFA). The Springs Reconstruction project is included in the City's Capital Improvement Plan and included in the 2016 budget.</p> <p>The City has received funds from the Water Supply and Facilities Funding Agreement partners and has \$153,609.21 on deposit to cover 100% of the expenses for this project.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
<p>RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-? (Clerk will assign number at adoption) authorizing the Mayor to sign a contract with PumpTech, Inc. to supply and install a new 12 pound per day On-Site Sodium Hypochlorite Generation System for the City's Springs water source.</p>		

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
March 17, 2016	Sent to Committee	
April 7, 2016		

RESOLUTION NO. 16-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON FOR A CONTRACT WITH PUMPTECH, INC TO SUPPLY AND INSTALL A NEW ONSITE SODIUM HYPOCHLORITE GENERATION SYSTEM

WHEREAS, The existing on-site chlorine sodium hypochlorite generation system is beyond its useful life and will not produce enough chlorine for any higher daily pumping levels; and

WHEREAS, The upgrade of the chlorine system was included in the Springs Reconstruction project as funded by and contemplated in the City's Water Supply and Facilities Funding Agreement with the major land owners of the City; and

WHEREAS, The City has included the springs reconstruction in the City's Capital Improvement Plan; and

WHEREAS, The City has called for funds for this project and the City has received funds to cover 100% of the expense of this project; and

WHEREAS, The City has advertised and received bid proposals from three different vendors; and

WHEREAS, The City has evaluated the proposals and selected PumpTech Inc. to supply and install the equipment,

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

Section 1. The Mayor is hereby authorized to sign a contract with PumpTech, Inc to supply and install a new 12 pound per day On-Site Sodium Hypochlorite Generation System for the City's water system.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS ____ DAY OF ____, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND

Department of Public Works
P.O. Box 599 – 24301 Roberts Drive
Black Diamond, Washington 98010

PUBLIC WORKS CONTRACT SMALL WORKS (WITH BOND)

- 1. Contract and Parties.** This Public Works Contract-Small Works (“Contract”) is between the CITY OF BLACK DIAMOND, King County, Washington (“City”), a Washington municipal corporation and **PumpTech, Inc.** (“Contractor”), a corporation organized under the laws of the State of Washington, whose address is 12020 SE 32nd Street, Suite 2, Bellevue, WA 98005. The City and Contractor are each a “Party” and together the “Parties” to the Contract. The Parties agree as follows.
- 2. Project.** The Parties enter into this Contract for purposes of Contractor providing the City with equipment and performing work for the City (“the Project”), generally described as:

Upgrade and Replacement of the City’s On-site Sodium Hypochlorite Generation System with a ClorTec OSHG System, as described in Exhibit “A” incorporated herein by this reference,
- 3. Effective date.** This Contract becomes effective and binding upon the Parties, including each Party’s heirs, successors, and assigns, immediately upon execution of this contract by both parties.
- 4. Notices to Parties.** Contractor agrees to accept notices under this Contract via facsimile or email. It is the responsibility of Contractor to notify the City in writing if any of the contact information appearing below should change. Any notices required shall be in writing and delivered to the following addresses. If notice by email, a hard copy shall be delivered or mailed the same date as email.

CITY CONTACT INFORMATION

CONTRACTOR CONTACT INFORMATION

CITY OF BLACK DIAMOND	PumpTech, Inc.
Mailing: P.O. Box 599	Doug Davidson
Delivery: 24301 Roberts Drive	12020 SE 32 nd Street, Suite 2
Black Diamond, Washington 98010	Bellevue, WA 98005
Contact: Seth Boettcher	Tax I.D. #
Phone: (360) 886-5700	Ph: 425-644-8501
Fax: (360) 886-2592	Fax: 425-5629213
Email: sboettcher@ci.blackdiamond.wa.us	e-mail: pumptech@pumptechnw.com

5. **Notice to Proceed.** Contractor shall provide a performance bond, insurance certificates, a City business license and statement of intent to pay prevailing wage rates within 10 days of receiving a notice of award. The City expects to issue a notice of award on or about March 18th, 2016. Upon timely receipt of the bond, insurance certificate, business license and statement of intent to pay prevailing wage rates, the City will thereafter have ten (10) days to issue a notice to proceed. July 8th, 2016 shall be the deadline for delivery of the equipment and completion of all work in accordance with the terms and conditions of the Contract. The deadline for completion of work may be extended, if the notice to proceed is delayed. The contract will stay in full force and effect until all obligations of the contract are satisfied.

6. **Obligations of Contractor.** The following terms and conditions apply to this Contract:

A. *In general.*

(1) Responsible for all labor and work. Contractor shall be solely responsible for furnishing all labor and performance of all work necessary to complete the Project as required.

(2) Responsible for furnishing all materials and equipment. Contractor shall furnish all materials and equipment necessary to complete the Project, except for any materials expressly agreed in writing to be provided by the City.

Documents incorporated by reference. All terms and specifications contained in any Request for Proposals (RFP) that was issued by the City as part of determining the awarding of this Contract are hereby incorporated by reference and must be complied with by Contractor, unless one or more of such terms and specifications are expressly amended or waived in writing by the City. The contract documents that the contractor shall comply with are: (1) this contract (2) the City's Construction Standards; (3) the WSDOT Standard Specs for Road, Bridge and Municipal Construction and (4) Exhibit A, attached hereto, which includes the following:

1. The advertisement for the equipment and installation.
2. The Request for Proposals
3. Vicinity Map
4. Mechanical Plan for Chlorine equipment placement
5. PumpTech Inc. Proposal
 - Tab 1 - Quote
 - Tab 2 - Warranty
 - Tab 3 - Customer Service Data
 - Tab 4 - Support Data
 - Tab 5 - De Nora Chlorotec Equipment Supplier Data
 - Tab 6 - References
 - Tab 7 - Life Cycle cost.

(3) Laws and regulations to be followed. Contractor, its employees, agents, and subcontractors, shall at all times fully comply with all applicable laws, regulations, and administrative rulings in performing work for the Project.

- (4) Work Hours. Contractor shall not work on weekends. On Mondays through Thursdays, Contractor shall not start work before 7:00 AM, and shall not work after 6:00 PM. Contractor shall not start work before 7:00 AM on Fridays. Contractor must be off the street and shall not work after 3:30 PM on Fridays.
- (5) Conditions of Work. By submitting a proposal in response to the City's solicitation for quotations, Contractor represents and warrants to the City that Contractor has fully informed itself of all conditions relating to the work involved for completing the Project. In prosecuting the work, Contractor shall employ such methods or means as will not interfere with or interrupt the work of the City or its agents, employees or contractors. The City will provide the Contractor with a gate key for access to the work site and pump house. The Contractor must keep the City's Utilities Superintendent, Dan DalSanto, (360-886-5712) informed as to the days that they will be working.
- (6) Contractor's Responsibility. Contractor will prosecute the work in accordance with instructions, descriptions and/or plans and specifications provided by the City. Contractor shall carry on the work at its own risk until the same is fully completed and accepted, and shall, in case of any accident, destruction or injury to the work and/or materials before its final completion and acceptance, repair or replace forthwith the work and/or materials so injured, damaged or destroyed, at his own expense and to the satisfaction of the City. When materials and equipment are furnished by others for installation or erection by Contractor, Contractor shall receive, unload, store and handle same at site and become responsible therefore as though such materials and/or equipment were being furnished by Contractor. Contractor shall procure all permits (unless permits are secured by the City) and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work. Contractor shall be responsible for preparing working drawings and shall submit them to the City for approval prior to commencement of work. For purposes of this Contract, working drawings shall mean, shop drawings, shop plans, erection plans, false-work plans, framework plans, cofferdam, cribbing and shoring plans, or any other supplementary plans or similar data, including a schedule of submittal dates for working drawings where specified, which Contractor will rely on for purposes of conducting the work for the Project.
- (7) Shipment time The contractor shall order the chlorine generation equipment within 5 days of receiving a notice to proceed. If the chlorine equipment is not delivered to the project site, as identified on the vicinity map in the attached Exhibit "A" and locked inside the pump house, within 18 weeks from the date of the notice to proceed, the City shall deduct \$1000 from the payment due the contractor in Section 7 herein, or, in the City's discretion, the City may terminate this contract as provided in Section 12 herein.
- (8) Contractor Clean-Up. Prior to physical completion, all debris resulting from Contractor's work, delivery or installation of equipment shall be disposed of entirely by Contractor in an efficient and expeditious manner as required and directed by the City.

- (9) Safety. Contractor and its subcontractors shall take all safety precautions and furnish and install all guards necessary for the prevention of accidents, and shall comply with all laws and regulations with regard to the prosecution of the work. Contractor agrees to furnish Material Safety Data Sheets (Form OSHA-20) applicable for hazardous or potentially hazardous products. Contractor agrees to comply with the conditions of the Washington Industrial Safety and Health Act of 1970, and standards and regulations issued thereunder, and certify that all items furnished and purchased will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless the City from damages assessed against the City because of Contractor's failure to comply with the Acts and the standards issued thereunder and for the failure of the items furnished under this order to so comply.

B. *Work Performance.*

- (1) Prevailing wages. Contractor shall pay prevailing wages, as that term is defined under the laws of the State of Washington, for all work performed on this Project by Contractor and by Contractor's employees, agents and subcontractors. Contractor is fully responsible for prevailing wage compliance.
For reference only, and without relieving any Contractor responsibility, the City notes the State of Washington prevailing wage rates for public works projects located in King County may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. Based on the bid submittal deadline for this Project, the applicable effective date for prevailing wages for this Project is January 15th, 2016. A copy of prevailing wage rates are also available for viewing at the office of the City, located at 24301 Roberts Drive, Black Diamond, WA 98010. Upon request, the City will mail a hard copy of the applicable prevailing wages for this Project.
- (2) Notice to City. Minimum 24-hours prior notice shall be given to the City's Department of Public Works prior to commencement of work under this Contract.
- (3) Approved Plans & Specifications to be followed. All work is to be performed to the City's satisfaction and in compliance with the Contract Documents listed in section 6.3 above, unless such requirements or specifications are expressly amended in writing by the City.
- (4) Schedule of Work to be followed. The project shall be completed by July 8th, 2016. Contractor shall diligently proceed with the work and shall assure that it, and its subcontractors, have adequate staffing at all times in order for Contractor to comply with any Schedule of Work agreed to by the Parties, and shall make all reasonable efforts to complete the work in a timely manner.
- (5) Duty to Correct. Contractor shall promptly correct work rejected by the City as failing to conform to the requirements of the Contract. The Contractor shall bear the cost of correcting such rejected work. If the Contractor fails to correct nonconforming work within a reasonable time, the City may correct it and Contractor shall reimburse the City for the cost of the correction.

- (6) Project Administration/Notice to Proceed. The Public Works Director, or his or her designee, shall administer this Contract and shall have all authority provided for the City under this Contract including all project approvals, including change orders. Contractor shall not commence work until Notice to Proceed has been given by the City. All work performed under this Contract will be monitored and inspected by the Public Works Director or his or her designee, and accepted by same.

C. *Non-Discrimination.*

- (1) Contractor, Contractor's officers and employees, and its subcontractors and agents, shall not discriminate against any employee or applicant for employment or any other person in the performance of this Contract because of race, creed, color, national origin, marital status, sex, age, disability, or other condition prohibited by federal, state, or local law or ordinance, except where the condition constitutes a bona fide occupational qualification under law.
- (2) Any violation of this Section shall be a material breach of this Contract and grounds for immediate cancellation, termination, or suspension of the Contract by the City, in whole or in part, and may result in Contractor being ineligible to perform further work for the City.
7. **Compensation.** Compensation shall be by Lump Sum of \$61,175.00 plus sales tax. The City shall pay the applicable sales tax to the contractor, and the contractor shall be responsible to pay the sales taxes to the state as required by law.
8. **Payment.**
- A. The City shall not be responsible for any payments to the contractor until the Clor Tech OSHG System is delivered to the City project site as identified on the vicinity map in the attached Exhibit "A" and locked within the pump house. Upon delivery, the contractor shall provide the City with the necessary documentation of ownership, including, but not limited to, a Bill of Sale (which will state that the equipment is fully paid for and that there are no liens on the equipment) and applicable warranty. Once these documents are delivered to the Public Works Director, the contractor may send an invoice to the City for the cost of the equipment delivered.
- B. The contractor shall submit a final invoice to the City for the balance of the full contract amount once the chlorine system is installed, operational and acceptable to the City.
- C. All invoices shall be submitted for work after it has been performed, and paid by City warrant within thirty (30) days of receipt of a proper invoice.
- D. Failure to perform any of the obligations under the Contract by Contractor may be decreed by the City to be adequate reason for withholding any payments until compliance is achieved. Progress payments for work performed shall not be evidence of

acceptable performance or an admission by the City that any work has been satisfactorily completed.

E. Payments received on account of work performed by a subcontractor are subject to the provisions of RCW 39.04.250.

9. **Performance and Payment Bond.** Contractor shall provide a performance and payment bond to the City prior to commencement of work for 100% of the bid amount including tax guaranteeing the full and faithful performance by Contractor of the terms and conditions of this Contract.

Initial: _____ (Contractor)

10. **Retainage.** Pursuant to Chapter 60.28 RCW, a sum of five percent (5%) of the monies earned by Contractor will be retained from progress payments. Such retainage shall be used as a trust fund for the protection and payment (1) to the State with respect to taxes imposed pursuant to RCW Title 82, and (2) the claims of any person arising under the Contract. No final payment or release of any retainage will be made until Contractor and each subcontractor has submitted an "Affidavit of Wages Paid" (LI 700-7 or other approved form) that has been certified by the industrial statistician of the Department of Labor and Industries. Also the retainage will not be released until the City has received certification that the Department of Revenue has received due payment of applicable taxes. Once the City has received certification from appropriate departments of the state of Washington, 45 days has passed from the date of acceptance of the Project and the City has not received any claims against the Project, then the City will release the retainage.
11. **Changes.** After execution of the Contract, changes in the Project may be accomplished by change order. The City, without invalidating the Contract, may order changes in the Project within the general scope of the Contract consisting of additions, deletions or other revisions, the contract sum and Contract completion date being adjusted accordingly. Change orders shall be in writing signed by the Parties.
12. **Termination of Contract.** This Contract may be terminated by the City at any time upon the default of the Contractor or upon public convenience, in which Contractor shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination. Contractor shall not be entitled to any reallocation of cost, profit or overhead. Contractor shall not in any event be entitled to anticipated profit on work not performed because of such termination. Contractor shall use its best efforts to minimize the compensation payable under this Contract in the event of such termination. If the contract is terminated for default, Contractor shall not be entitled to receive any further payments under the Contract until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to Contractor. Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

13. Responsibility Criteria and Verification by Contractor. Pursuant to Chapter 39.04 RCW, the following requirements are part of this Contract:

A. *Responsibility Criteria.*

- (1) Eligibility to be awarded contract. Contractor hereby certifies that Contractor meets the following responsibility criteria:
- a. Contractor has a certificate of registration in compliance with chapter 18.27 RCW;
 - b. Contractor has a current state unified business identifier number;
 - c. If applicable, Contractor has industrial insurance coverage for Contractor's employees working in Washington as required under Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and
 - d. Contractor is not disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).

B. *Requirement to verify subcontractors.* Contractor verifies the responsibility criteria contained above for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors and that each subcontractor verify the responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW. This verification requirement must be included in every subcontract of every tier.

14. Insurance.

- A. All employees, subcontractors, agents to be covered. Contractor shall procure and maintain for the duration of the Contract, and shall provide proof satisfactory to the City, insurance that covers Contractor and each of Contractor's employees, subcontractors or agents (who are not otherwise covered by Contractor's insurance) against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its employees, subcontractors or agents.
- B. Lack of insurance grounds for termination of contract. Failure of Contractor to maintain insurance as required herein shall be grounds for immediate termination of this Contract by the City.
- C. Title 51 Industrial Insurance Waived. The Parties have specifically negotiated as a term of this Contract that Contractor has agreed to expressly waive immunity under Title 51 RCW, Industrial Insurance Law.

D. Minimum Scope of Insurance. Contractor shall obtain insurance of the types described below and maintain such insurance 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 performance of the work hereunder by the Contractor, its agents, representatives or employees as follows

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. The policy shall provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

E. Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

3. Builders Risk insurance shall be written in the amount of the completed value of the Project with no coinsurance provisions.

4. Employer's liability insurance each accident \$1,000,000; Employer's Liability Disease each employee \$1,000,000; and Employer's Liability Disease – policy limit \$1,000,000.

E. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Commercial General Liability, Employer's Liability and Builders Risk insurance:

1. Contractor's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool

coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

2. Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

3. Contractor, at the City's request, shall provide to the City a complete copy of requested policy(ies) and not just certificates.

4. The City will not waive its right to subrogation against the Contractor. The Contractor's insurance shall be endorsed acknowledging that the City will not waive its right to subrogation. The Contractor's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.

F. Verification of Coverage. Contractor shall furnish the City with original certificates and a copy of all amendatory endorsements, naming the City as additional named insured, including but not necessarily limited to the additional insured endorsements evidencing the Automobile Liability and Commercial General Liability insurance of Contractor before commencement of the work. Before any exposure to loss may occur, Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this Project.

G. Subcontractors. Contractor shall ensure that each subcontractor of every tier obtains at a minimum the same insurance coverage and limits as stated herein for Contractor (with the exception of Builders Risk insurance). Upon request of the City, Contractor shall provide evidence of such insurance.

H. Contractor's Other Losses. Whether insured or not, Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, vehicles, equipment or other personal property; and Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by Contractor, or Contractor's agents, suppliers or contractors as well as to any temporary structures, scaffolding and protective fences.

15. Claims for damages.

A. Excluded situations. The City shall not be responsible for delays caused by soil conditions; underground obstructions; labor disputes; fire; delays by third parties, including public and private utilities; or reasonably foreseeable delays.

B. Liability limited to direct costs. Contractor agrees that the City's liability to Contractor for payment of claims or damages of any kind whatsoever related to this Contract shall be limited to direct costs as provided under the force account provisions of applicable standard specifications. Contractor expressly waives all

claims for payment of damages that include or are computed on total costs of job performance, extended overhead, or other similar methods that are not specific as to the actual, direct costs of contract work as defined in the force account provisions of applicable standard specifications.

- C. "Damages" defined. For purposes of applying RCW 4.24.115 to this Contract, Contractor and the City agree that the term "damages" applies only to a finding in a judicial proceeding and is exclusive of third party claims for damage primarily thereto.
- D. Indemnification. The following provision shall control over any other indemnification provision in the Contract Documents. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

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 Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further agreed that claims for damages against the City for which Contractor's insurance carrier does not accept defense of the City may be tendered by the City to Contractor, who shall then accept and settle with the claimant or defend the claim. The City retains the right to approve claims investigation and counsel assigned to said claims, and all investigation of legal work product regarding said claims shall be performed under a fiduciary relationship to the City.

It is further specifically and expressly understood that the indemnification provided herein constitutes Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Contract.

16. Assigning or Subcontracting. Contractor shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Contract without the express prior written consent of the City.

17. Independent Contractor. Contractor is and shall be at all times during the term of this Contract an independent contractor.

18. Disputes. Any action for claims arising out of or relating to this Contract shall be governed by the laws of the State of Washington. Venue shall be in King County Superior Court.

19. Attorneys Fees. In any suit or action instituted to enforce any right granted in this Contract, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys fees from the other party.

20. Extent of Contract/Modification. This Contract, together with attachments or addenda, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may be amended, modified or added to only by written instrument properly signed by both parties. Should any language in any of the Exhibits or Contract Documents conflict with language contained in this Contract, the provisions of this Contract shall prevail.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

BY ITS SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THIS CONTRACT AND AGREES TO BE BOUND BY THEM.

CITY OF BLACK DIAMOND

CONTRACTOR

By: _____

By: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachments

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____ (*Corporate Officer (Not Contract Signer)*) certify that I am the _____ (*Corporate Title*) of the corporation named as Contractor in the Contract attached hereto; that _____, (*Contract Signer*) who signed said Contract on behalf of Contractor, was then _____ (*Corporate Title*) of said corporation; that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corp. officer signature (not contract signer)

Printed

Title

State of _____

County of _____

_____, (*corporate officer (not contract signer)*) being duly sworn, deposes and says that he/she is _____ (*Corporate Title*) of _____ (*Name of Corporation*)

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary Public (Signature)

Notary Public (Print)
My commission expires _____

**DECLARATION OF OPTION FOR MANAGEMENT
OF STATUTORY RETAINED PERCENTAGE**

Note: This form must be submitted at the time Contractor executes the contract. Contractor shall designate the option desired by checking the appropriate space.

Monies reserved under provisions of RCW 60.28, at the option of Contractor, shall be:

_____ (1) Retained in a fund by the City.

_____ (2) Deposited by the City in an interest-bearing account in a bank, mutual savings bank or savings and loan association.

_____ (3) Placed in escrow with a bank or trust company by the City. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserved payable to the bank or trust company and Contractor jointly. Such check shall be converted into bonds and securities chosen by Contractor and approved by the City and the bonds and securities held in escrow. Contractor in choosing option (2) or (3) agrees to assume full responsibility to pay all costs which may accrue from escrow services, brokerage charges or both, and further agrees to assume all risks in connection with the investment of the retained percentages in securities.

Contractor Signature

Date

PERFORMANCE AND PAYMENT BOND

**CITY OF BLACK DIAMOND
ON SITE SODIUM HYPOCHLORITE GENERATION SYSTEM
By Contract authorized by City resolution xxx**

Bond to City of Black Diamond, Washington

Bond No. _____

We, _____, and _____,
(Principal) (Surety)

a _____ Corporation, and as a surety corporation authorized to become a surety upon Bonds of Contractors with municipal corporations in Washington State, are jointly and severally bound to the City of Black Diamond, Washington (“Owner”), in the penal sum of _____ Dollars (\$_____), the payment of which sum, on demand, we bind ourselves and our successors, heirs, administrators, executors, or personal representatives, as the case may be. This Performance Bond is provided to secure the performance of Principal in connection with a contract dated _____, 2016 by resolution xxx, (“Contract”) between Principal and Owner for a project entitled Black Diamond On-Site Sodium Hypochlorite Generation System. The initial penal sum shall equal 100 percent of the Total Bid Price, including sales tax, as specified in the Proposal submitted by Principal.

NOW, THEREFORE, this Performance and Payment Bond shall be satisfied and released only upon the condition that Principal:

- Faithfully performs all provisions of the Contract and changes authorized by Owner in the manner and within the time specified as may be extended under the Contract;
- Pays all laborers, mechanics, subcontractors, lower tier subcontractors, material persons, and all other persons or agents who supply labor, equipment, or materials to the Project; and
- Pays the taxes, increases and penalties incurred on the Project under Titles 50, 51 and 82 RCW on: (A) Projects referred to in RCW 60.28.011(1)(b); and/or (B) Projects for which the bond is conditioned on the payment of such taxes, increases and penalties.

The surety shall indemnify, defend, and protect the Owner against any claim of direct or indirect loss resulting from the failure:

- Of the Principal (or any of the employees, subcontractors, or lower tier subcontractors of the Principal) to faithfully perform the contract, or
- Of the Principal (or any subcontractor or lower tier subcontractor of the Principal) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work.

The liability of Surety shall be limited to the penal sum of this Performance and Payment Bond.

Principle and Surety agree that if the Owner is required to engage the services of an attorney in connection with enforcement of this bond each shall pay the Owner’s reasonable attorney’s fees, whether or not suit is commenced, in addition to the penal sum.

CITY OF BLACK DIAMOND
Contract authorized by Resolution xxx
Performance and Payment Bond

No change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed under the Contract shall in any way affect Surety's obligation on the Performance Bond. Surety hereby waives notice of any change, extension of time, alteration, or addition to the terms of the Contract or the Work, with the exception that Surety shall be notified if the Contract time is extended by more than twenty percent (20%).

If any modification or change increases the total amount to be paid under the Contract, Surety's obligation under this Performance and Payment Bond shall automatically increase in a like amount. Any such increase shall not exceed twenty-five percent (25%) of the original amount of the Performance and Payment Bond without the prior written consent of Surety.

This Performance and Payment Bond shall be governed and construed by the laws of the State of Washington, and venue shall be in King County, Washington.

IN WITNESS WHEREOF, the parties have executed this instrument in two (2) identical counterparts this _____ day of _____, 20 ____.

Principal

Surety

Signature of Authorized Official

Signature of Authorized Official

Printed Name and Title

By _____
Attorney in Fact (Attach Power of Attorney)

Name and address of local office of
Agent and/or Surety Company:

Surety companies executing bonds must appear on the current Authorized Insurance List in the State of Washington per Section 1-02.7 of the Standard Specifications.

CITY OF BLACK DIAMOND
Contract authorized by Resolution xxx
Performance and Payment Bond

ACKNOWLEDGEMENT

Corporation, Partnership, or Individual

STATE OF _____)
)ss.

COUNTY OF _____)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the (check one of the following boxes):

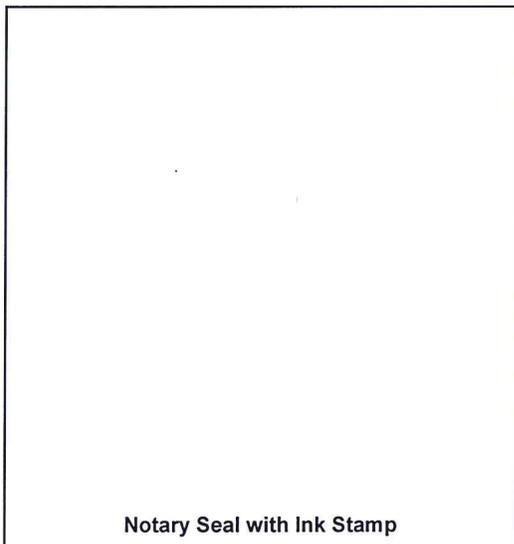
_____ of _____, the
corporation,

_____ of _____, the
partnership,

individual,

that executed the foregoing instrument to be the free and voluntary act and deed of said corporation, partnership, individual for the uses and purposes therein mentioned, and on oath stated that he she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Print or type name

NOTARY PUBLIC,
in and for the State of Washington

Residing at _____

My Commission expires: _____

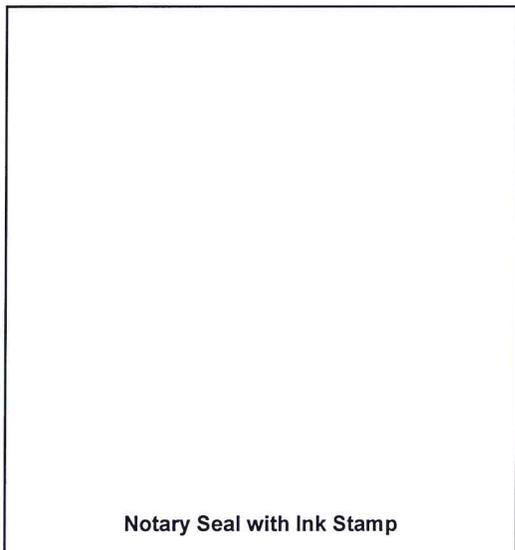
SURETY ACKNOWLEDGEMENT

STATE OF _____)
)ss.

COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the corporation that executed the foregoing instrument, and acknowledged the 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 he she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Print or type name

NOTARY PUBLIC,
in and for the State of Washington

Residing at: _____

My Commission expires: _____

EXHIBIT "A"

**REQUEST FOR PROPOSALS (RFP)
NOTICE TO EQUIPMENT SUPPLIERS AND CONTRACTORS**

The City of Black Diamond Public Works Department is requesting proposals for the a new
On-Site Sodium Hypochlorite Generation System.

RECEIPT OF PROPOSALS: Proposals will be received by the City of Black Diamond until **10:30 am (as determined by the clock in the Clerk's office) on Tuesday January 5th, 2016.** Proposals may be delivered to City Hall, 24301 Roberts Drive, Black Diamond, Washington 98010 or mailed to the mailing address of P.O. Box 599, Black Diamond, Washington 98010 or submitted electronically to shanis@ci.blackdiamond.wa.us identified in the subject as chlorine upgrade proposal. **Proposals mailed to the address set forth for *delivery* of Proposals will not be delivered by the postal service.** Any Proposals received after the specified time and date will not be considered.

COMPLETION OF WORK: It is the intent of the Contract that all physical work be performed within a single time period of not more than 60 consecutive working days, but ending no later than April 29, 2016. The Contractor shall substantially complete all physical Contract Work not later than April 8, 2016.

DESCRIPTION OF WORK: The City of Black Diamond would like to upgrade their existing on-site sodium hypochlorite generation system at their existing North Bank Pump Facility near the Green River to meet increasing water demands. The City is requesting proposals from qualified On-Site Sodium Hypochlorite Generation manufacturers for the manufacture, supply and installation of a 12 lb. per day chlorination system to be incorporated and retrofit into the City's North Bank Pump Facility. An existing facility drawing and layout is attached. The contract will be subject to regulations of the Departments of Labor and Housing and Urban Development.

SITE OF WORK: The Project is located 2 miles southeast of Black Diamond on a locked gated gravel road (see vicinity map in packet materials).

OBTAINING CONTRACT DOCUMENTS: Pump House Plan, submittal requirements, project information vicinity map and contract be viewed or ordered on-line by going to www.bxwa.com and clicking on "Posted Projects", "Public Works", and "City of Black Diamond". Any addenda or changes to the RFP documents will be posted on the Builders Exchange website; it is the bidder's responsibility to ensure they have acquired all addenda prior to submitting a proposal.

PROPOSALS TO REMAIN EFFECTIVE: The Proposal submitter shall guarantee the proposal and be prepared to sign a contract with the City for a period of 90 calendar days from the date of proposal submittal.

PROJECT ADMINISTRATION: All communications relating to the Project shall be directed to the following Project Representative prior to the opening of the Bids:

Scott Hanis, Capital Project Manager
24301 Roberts Drive (delivery)
PO Box 599 (mailing)
Black Diamond, WA 98010
shanis@ci.blackdiamond.wa.us

OWNER'S RIGHTS RESERVED: The City of Black Diamond reserves the right to reject any or all Bids and to waive informalities in the bidding process. The Agreement will be awarded to the proposal that best meets the needs serves the interests of the City of Black Diamond.

Request for Proposal

City of Black Diamond

On-Site Sodium Hypochlorite Generation System

The City of Black Diamond (City) is in need to upgrade their existing on-site sodium hypochlorite generation system (OSHG) at their existing North Bank Pump Facility (NBPF) to meet increasing water demands. The City is requesting proposals from qualified OSHG manufacturers for the manufacture, supply and installation of the chlorination system to be incorporated and retrofit into the City's NBPF. An existing facility drawing and layout is attached.

The existing OSHG system is located in the City's North Bank Pump Facility and consists of the following equipment:

- On-site sodium hypochlorite generation system: 2-pounds per day, to be removed;
- Brine saturator: 30-gallons, to be reused;
- Product tank: 55-gallons, to be removed; and replaced with an appropriate sized tank
- Metering pump: 10.2 gallons per hour at 180 psi, to remain in use; a parallel and alternating 10 to 11 gallon per hour (180 psi positive displacement pump of the same manufacture and model shall be installed adjacent to the existing pump
- Metering pump chemical discharge piping is to remain in use.
- A new chlorine injector shall be installed.

Design Criteria

1. Current Design Pump Flow Rate: 400 gpm
2. Future Design Pump Flow Rate: 1,100 gpm
3. Chlorine Dose: 1.0 parts per million
4. Available Building Water Supply Pressure: 5 - 20 psi; a booster pump might be required
5. Water Temperature: ~47 °F; a water heater might be required
6. OSHG System Capacity: 12 pounds-per-day (ppd) should have capability for future expansion to 24-pounds per day with minor additions (i.e. no major equipment replacement, such as the rectifier)
7. Product Tank Volume: 216 gallon minimum and needs to be sized to appropriately fit within the south east corner of existing North Bank Pump Facility, see attached drawing.

Submittal Information

- A. The location of the nearest emergency response maintenance technicians; Describe any warranties that are available; Describe your customer service and charge out rates.
- B. Describe the typical order to delivery time for replacement parts as needed
- C. Price of OSHG equipment, product tank and all appurtenances for a fully working system, List all equipment and appurtenances.
- D. Price of equipment installation and specifically identify what is included in this work
- E. Describe the electrical requirements of the new OSHG system.
- F. Describe the advantages of the various pieces of OSHG equipment
- G. Describe how the challenges of coordinating with control systems will be met
- H. Determine who will provide the electrical wiring needs for the equipment installation and/or how this work will be coordinated. (subcontractor? In house staff? Is the permit included in the price?)
- I. Provide a 20 year life cycle analysis
- J. Provide at least 5 references.
- K. Provide an itemized Lump Sum bid for the equipment and fully functional installation.

Evaluation and Selection Process

The City will review the proposal upon receipt and score each proposal based on proposal completeness, past performance, operations and maintenance considerations and capital cost, detailed as follows.

- i. Completeness of Proposal – 10/100 points

Request for Proposal
City of Black Diamond
On-Site Sodium Hypochlorite Generation System

This will account for the manufacturer's adherence to this request for proposal's requirements. Exceptions will be noted and factored into scoring this criterion.

- ii. Project References – 25/100 points
The manufacturer shall provide a list of at least five different projects completed in the last three years with similar scope of work. For each reference provide the contact's name, title, phone number and size of chlorination system. Reference discussion topics will include chlorination system installation process during construction, ease of operations and overall customer satisfaction.
- iii. Operating and Maintenance Considerations – 35/100 points
Manufacturers shall submit detailed 20-year life cycle costs which will include equipment replacement costs and their typical lifespan. Operating and maintenance considerations discussed with references, such as manufacturer responsiveness and chlorination system equipment replacement, will be factored into scoring this criterion.
- iv. Capital Cost – 30/100 points
The unit cost of pound-per-day of chlorine generated will be evaluated. This is the total cost of the OSHG system, product tank and all appurtenances for a fully operational system.

Please let me know if you have any questions on the above information.

Please submit proposals by January 15, 2016. Thank you.

Mail to

Seth Boettcher,
Public Works Director,
City of Black Diamond,
PO Box 599,
Black Diamond, WA 98010
Phone: 360-886-5711

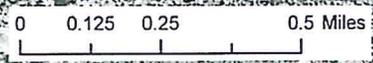
OR

e-mail to

sboettcher@ci.blackdiamond.wa.us
reference chlorine generation upgrade

EQUAL OPPORTUNITY: The City of Black Diamond is committed to a program of equal employment opportunity regardless of race, color, creed, sex, age, national origin or the presence of any sensory, mental or physical disability.

VICINITY MAP





SERVING THE PACIFIC NORTHWEST
PUMP SALES & SERVICE

City of Black Diamond On-Site Sodium Hypochlorite Generation System

Proposal

Bid Date: Jan. 15, 2016
Bid Time: 10:30 AM

Customer: City of Black Diamond
PO Box 599
Black Diamond, WA 98010

ENGINEER: RH2 Engineering, Inc.
950 Pacific Ave, Suite 1220
Tacoma, WA

SUPPLIER: PumpTech, Inc.
12020 SE 32nd Street, Ste 2
Bellevue, WA 98005

Municipal

PumpTech Inc.
12020 SE 32nd St, Suite 2
Bellevue, WA 98005
Ph: 425-644-8501
Fax: 425-562-9213
pumptech@pumptechnw.com

WA CONTRACTORS # PUMPTI*148LF

Industrial

PumpTech Inc.
209 S Hamilton Rd
Moses Lake, WA 98837
Ph: 509-766-6330
Fax: 509-766-6331
moseslake@pumptechnw.com

www.pumptechnw.com

Packaged Systems

PumpTech Inc.
321 S Sequoia Parkway
Canby, OR 97013
Ph: 503-659-6230
Fax: 503-659-8718
inquiries@pumptechnw.com

OR CONTRACTORS # 154997



SERVING THE PACIFIC NORTHWEST

PUMP SALES & SERVICE

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Tab 4.	Proposal Support Data
Tab 5.	De Nora ClorTec Proposal Data
Tab 6.	References
Tab 7.	Life Cycle Cost

Municipal

PumpTech Inc.
12020 SE 32nd St, Suite 2
Bellevue, WA 98005
Ph: 425-644-8501
Fax: 425-562-9213
pumptech@pumptechnw.com

WA CONTRACTORS # PUMPTI'945QG

Industrial

PumpTech Inc.
530 E Broadway, Suite B
Moses Lake, WA 98837
Ph: 509-766-6330
Fax: 509-766-6331
pumptech@gcpower.net

www.pumptechnw.com

Packaged Systems

PumpTech Inc.
2425 SE Ochoco St
Portland, OR 97222
Ph: 503-659-6230
Fax: 503-659-8718
inquiries@pumptechnw.com

OR CONTRACTORS # 154997



1961

PumpTech Inc.
12020 SE 32ND Street Suite 2
Bellevue, WA 98005
Phone: 425-644-8501
Fax: 425-562-9213
jjoyce@pumptechnw.com

Sales Quotation

Customer#: 0175609

TO:
Seth Boettcher
Publick Works Director
City of Black Diamond
PO Box 599
Black Diamond, WA 98010
Phone: (360) 886-5711

Salesperson: Jim Joyce / Mike Dunn
Lead Time: 10 Weeks
FOB: FOB ORIGIN - FFA
Ship Via: PUMPTECH TRUCK

Quote #: 0124219
Date: 1/15/2016
Expires: 2/15/2016
Bid Date: 1/15/2016 10:30 am

Project Name: Black Diamond On-Site Sodium Hypochlorite Generation System

Item	Price	Qty	Extend
------	-------	-----	--------

PumpTech is pleased to offer the following OSHG equipment and services:

ClorTec OSHG System	48,125.00	1.00	48,125.00
ClorTec OSHG System, 12 PPD, Model MCT-12, complete with: - Wall Mount Panel Board with brine proportioning system - 12 PPD generating cell - 20 micron inlet filter - Control Cabinet with PLC and HMI - Local Power Supply - Water softener - 216 Gallon HDXLPE Hypochlorite Storage Tank - Ultrasonic Level Sensor for Hypo Tank - 1500W Water Heater for incoming water - OSHG System Spare Parts Kit - New 10.2 gph @ 180 psi metering pump (See attached documentation for further details)			

Continued



PumpTech Inc.
 12020 SE 32ND Street Suite 2
 Bellevue, WA 98005
 Phone: 425-644-8501
 Fax: 425-562-9213
 jjoyce@pumptechnw.com

Sales Quotation

TO:
 Seth Boettcher
 Publick Works Director
 City of Black Diamond
 PO Box 599
 Black Diamond, WA 98010
 Phone: (360) 886-5711

Salesperson: Jim Joyce / Mike Dunn
Lead Time: 10 Weeks
FOB: FOB ORIGIN - FFA
Ship Via: PUMPTECH TRUCK

Customer#: 0175609

Quote #: 0124219
Date: 1/15/2016
Expires: 2/15/2016
Bid Date: 1/15/2016 10:30 am

Project Name: Black Diamond On-Site Sodium Hypochlorite Generation System

Item	Price	Qty	Extend
Labor	13,050.00	1.00	13,050.00
Labor to: - remove existing OSHG - remonve exsiting 55 gallon product tank - reuse existing brine tank - reuse existing metering pump - reuse existing chemical discharge line - install new rectifier - install new OSHG Control Panel - install new water heater - install new softener - install new electrolizer panel - install new hypochlorite solution tank - install new dosing pump - install new chlorine injector - install interconnecting piping - install electrical wire and conduit per code to interconnect OSHG components - test all components for proper operation - perform start up - perform operator training			

SubTotal 61,175.00

The above order is subject to Pumplech Inc. standard terms and conditions and credit approval which are attached and made part of this agreement. We appreciate your interest in our products and services and if you have any questions on our offerings please do not hesitate to call.

By signature below, I accept this offering:

Signed: _____

Name: _____ Title: _____

Sales Tax: 0.00

Total: 61,175.00



STANDARD TERMS & CONDITIONS

SHIPMENT

Estimated shipment from manufacturer can proceed as quoted after receipt of approved submittals and purchase order. Quoted shipment time is not guaranteed and is based on information from our suppliers. Any late delivery charges due to shipment beyond the above estimated schedule will not be accepted.

CONDITIONS OF SALE

PUMPTECH INC is not bound by the terms and conditions in Purchaser's Purchase Order or in Purchaser's or Owner's Plans & Specifications unless such terms are delivered to PumpTech prior to quotation and referenced in the quotation .

PUMPTECH INC is not responsible for delay, disruption, consequential or liquidated damages of any sort, unless Purchaser requests and receives a quotation which includes pricing and terms for such damages.

CREDIT APPROVAL AND PAYMENT TERMS

Credit approval is required by PUMPTECH INC. prior to release of order to manufacturer; however, submittal may begin at the time of receipt of purchase order. PUMPTECH, INC.'s payment terms are Net 30 days from invoice date. In some circumstances PUMPTECH, INC. may require Progress Payments. Progress payments are due and payable on receipt of invoice. "Standard Progress Payment Plan" is defined as a payment plan that includes the following terms in the Purchase Order or in the agreement:

- a. 15% - Fifteen percent on receipt of approved drawings
- b. 30% - Thirty percent with order of major components
- c. 20% - Twenty percent on receipt of major components at our facility
- d. 30% - Thirty percent upon shipment
- e. 5% - Five percent on start up

A finance charge of 1.5% per month will be charged on all past due balances. If PUMPTECH, INC. is forced to turn this over to a collection agency; purchaser agrees to pay costs of the collection to the extent that is allowed by law for commercial accounts. Purchaser also agrees to pay attorney fees and court costs in the event of a suit.

WARRANTY

The only warranty/guarantee implied or applied to this quotation are those as put forth by the original manufacturer. Products manufactured by PUMPTECH INC. are warranted to be free from defects in material and workmanship for a period of one (1) year from the date of installation provided that the product is properly installed, serviced, and operated under normal conditions.

TAXES

The pricing in the quotation does not include any local, state, or federal taxes. If applicable, taxes will be included on the invoice.

With the signature below, purchaser agrees to the above terms and conditions, and authorizes PUMPTECH INC. to proceed with the order.

(Purchaser's signature) Printed Name & Title (Date)

Deleted. See contract.
Meth B. 2-22-2016

PumpTech Inc.

WARRANTY POLICY

PumpTech warrants all products of its manufacture to be free from defects in material and workmanship for a period of one year from date of installation or 18 months from date of shipment, provided the product is properly installed, serviced and operated under normal conditions according to the manufacturer's instructions. Other warranties as put forth by component equipment manufacturers shall prevail if longer in duration than the 1 year **PumpTech** warranty, when such equipment is used and overrides the **PumpTech** warranty. In all cases **PumpTech** is the first point of contact for all warranty items.

Major components which fail to perform or prove defective in service during the warranty period and are determined by to have failed because of defect in workmanship or materials shall be replaced, repaired or satisfactorily modified by the either **PumpTech** or the manufacturer F.O.B. factory or authorized warranty service station or **PumpTech** facility. The warranty shall not assume responsibility for removal, reinstallation or freight. Without written authorization, **PumpTech** will assume no expense, liability or responsibility for repairs made outside of the **PumpTech** facility. Correction or replacement of any defective parts shall constitute fulfillment of all obligations.

Warranty Exceptions:

1. Items that must be replaced because of normal wear such as pump seals, packing, light bulbs, grease, etc.
2. Items that have been subject to misuse, abuse or neglect or accident.
3. Products that have been repaired or altered outside the manufacturer's factory without written authorization from the manufacturer.
4. Products that are not started up by a manufacturer's representative within 60 days after delivery to the job site unless special maintenance instructions are requested from the factory in writing before the 60 days have expired.

PumpTech will not be held responsible for travel expenses, rented equipment, outside contractor's fees or unauthorized repair shop expenses. **PumpTech** assumes no liability for loss of use or for any direct, indirect or consequential damages of any kind in respect to the use or operation of **PumpTech** products or any equipment or accessories in conjunction therewith.



SERVING THE PACIFIC NORTHWEST
PUMP SALES & SERVICE

CUSTOMER SERVICE DATA

Contact:

PumpTech, Inc.
12020 SE 32nd St, Ste 2
Bellevue, WA

(425) 644-8501 – Phone
(425) 562-9213 - Fax

Staff:

- 3 Persons in Parts and Sales Support
- 3 Field Service Technicians

Our main phone number listed above, (425) 644-8501, is monitored 24 hr/day, 365 days per year. This number connects to our on-call support staff during the non-business hours in case our customers need assistance.

Municipal

Industrial

Packaged Systems

☐ *PumpTech Inc.*
 12020 SE 32nd St, Suite 2
 Bellevue, WA 98005
 Ph: 425-644-8501
 Fax: 425-562-9213
 pumptechnw.com

☐ *PumpTech Inc.*
 209 S Hamilton Rd
 Moses Lake, WA 98837
 Ph: 509-766-6330
 Fax: 509-766-6331
 moseslake@pumptechnw.com

☐ *PumpTech Inc.*
 321 S. Sequoia Parkway
 Canby, OR 97013
 Ph: 503-659-6230
 Fax: 503-659-8718
 inquiries@pumptechnw.com

WA CONTRACTORS # PUMPTI*945QG

www.pumptechnw.com

OR CONTRACTORS # 154997



SERVING THE PACIFIC NORTHWEST
PUMP SALES & SERVICE

Proposal Support Data

- A. The location of the nearest emergency response maintenance technicians is located at our Bellevue facility, 12020 SE 32nd St, Ste 2, Bellevue, Wa
Our Field Service Technician's rates are currently \$110.00/hr portal to portal.
- B. Typical order delivery time is 1 day to 2 weeks depending on available stock and requested delivery method. Some parts are shipped from our Bellevue Warehouse and others are shipped from De Nora's Warehouse in Sugarland, TX.
- C. For pricing of the equipment please refer to the PumpTech quotation and the De Nora Proposal, both attached.
- D. Installation pricing is shown on the PumpTech quotation attached.
- E. The electrical needs of the equipment is a minimum of 120VAC, 60hz, 1 phase, 10 FLA. See attached drawings for further details.
- F. The advantages of the ClorTec^R OSHG System is detailed in the attached proposal from De Nora
- G. The control system is designed and programmed by De Nora however our technical service staff is fully trained on the operation, maintenance, troubleshooting and programming if needed. As such our technicians are capable of connecting and coordinating all the various OSHG components for a properly operational system.
- H. Electrical wiring needs will be handled a licensed electrical contractor who will be a subcontractor to PumpTech, Inc. Electrical permits are included in this proposal.
- I. See attached for 20 year life cycle.
- J. See references, both from PumpTech and De Nora.
- K. For the Itemized Lump Sum Pricing refer to the PumpTech quotation attached.

Municipal

PumpTech Inc.

12020 SE 32nd St, Suite 2
Bellevue, WA 98005
Ph: 425-644-8501
Fax: 425-562-9213
pumptech@pumptechnw.com

WA CONTRACTORS # PUMPTI*945QG

Industrial

PumpTech Inc.

209 S Hamilton Rd
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Ph: 509-766-6330
Fax: 509-766-6331
moseslake@pumptechnw.com

www.pumptechnw.com

Packaged Systems

PumpTech Inc.

321 S. Sequoia Parkway
Canby, OR 97013
Ph: 503-659-6230
Fax: 503-659-8718
inquiries@pumptechnw.com

OR CONTRACTORS # 154997



Section 1

Proposal



De Nora Water Technologies Texas, LLC
1110 Industrial Blvd
Sugar Land TX 77478
Tel 281-240-6770
Fax 281-240-6762

ClorTec®

On-Site Sodium Hypochlorite Generation System Proposal

Date: January 12, 2016
Customer Name: Pumptech, Inc.
Project Name: City of Black Diamond, WA
Project Location: Black Diamond, WA
RFQ Reference: e-mail

Proposal No: P-16555 Q-7374 R0

Attn: To whom it may concern,

On behalf of De Nora Water Technologies Inc. we are pleased to present our proposal for the City of Black Diamond OSHG project. De Nora Water Technologies - ClorTec technology has been effectively implemented worldwide and we are excited for the opportunity to provide our on-site sodium hypochlorite generation system for this project.

Some specific benefits of the ClorTec on-site sodium hypochlorite generation system are:

- A system offering the highest efficiency in the industry with the guaranteed lowest consumption of salt and electricity.
- An experienced manufacturer/supplier with 3,000 installed ClorTec® systems worldwide and a significant global market share of large municipal installations.
- Proven titanium electrodes providing an unmatched robust design and durability.
- Standard multi-layered safety design including a hydrogen detector for generator room, as well as various integral devices eliminating any possibility of operator error.
- An optimized hydrogen dilution system including vent stacks, as applicable, and tank blowers.
- A sophisticated rectifier feature allowing the system to regulate current and voltage input and adjust for any inherent variations, making the process even more efficient.
- On-site hypochlorite generation systems that have been fully integrated into the overall plant and recognize the importance of Public Health and Safety.
- DWI and ETV certified equipment.



Some general benefits associated with ClorTec® on-site systems:

- Eliminated bulk storage of chemicals
- No transportation liabilities
- Reduced threat to public safety
- Lower disinfection byproducts
- Consistent solution concentration
- A simple, cost effective product
- Reduced risk to plant personnel because of drastically reduced hazardous material (HazMat) storage and handling requirements;

We have enclosed a detailed proposal for your review and evaluation that has been prepared per your bid request and technical specifications. Please feel free to contact our local regional sales manager, rep agency or myself should you have any questions.

Best Regards,

Shrikanth Vaikundam
Technical Sales Engineer
Tel: 281-274-8470
Shrikanth.vaikundam@denora.com

cc: Emile Musallam
Western Regional Sales Manager
Cell (408) 309-1549
emile.musallam@denora.com



ClorTec®
On-Site Sodium
Hypochlorite Generation System

Proposal for:

City of Black Diamond OSHG

Black Diamond, WA

January 12, 2016

Proposal No P-16555/Q-7374 R0



De Nora Water Technologies Texas, LLC
1110 Industrial Blvd
Sugar Land, TX 77478



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1 Scope of Supply

A. ClorTec® Wall Mounted MCT-12

DNWT is proposing our ClorTec® system capable of producing 12-lbs per day chlorine equivalent. This equipment consists of:

Factory Pre-Assembled MCT Mounted on Back Panel:

One each	Polypropylene wall mount panel board with brine proportioning system, drain valve, acid cleaning by-pass valves, solenoid valve, pressure regulator and flow switch.
One each	12 PPD DSA titanium electrodes with temp/level controls, DC Copper connection points and safety covers, assembled in a clear acrylic housing. Factory plumbed and mounted on panel board.
One each	20 Micron 10" inline filters in clear PVC housing factory mounted on panel board.

Factory Pre-Assembled Equipment Provided as a Loose Assembly:

One each	Control Cabinet with: <ul style="list-style-type: none"> • Painted carbon steel, NEMA 4 enclosure • 4" colour touchscreen display. • Horner XL4 (OCS) PLC • RS-232/485 Serial Port • All necessary I/O points • Safety interlocks
One each	Power Supply shall be located in a NEMA 12, polyester powder coated steel enclosure. The Power Supply shall be an air-cooled with soft start constant current.

Factory Pre-Assembled Equipment Provided as a Loose Items:

One each	Kinetico, dual tank, continuous operation, automatic regenerating water softener.
One each	216 gallon HDXLPE hypochlorite storage tank with fittings and drain. (3'-0"Dia x 5'-3"H)
One each	Ultrasonic level indicator for the hypochlorite storage tank.
One each	1500W water heater (Based on a minimum inlet water temp of 47°F)
One each	MCT Spare parts kit

B. Technical Services

Engineering & Documentation:

- One (1) electronic set of Shop Drawing & Product Data submittals.
- One (1) paper copy and one (1) electronic copy of Operation & Maintenance Manuals.

Startup and Training

- This proposal is for equipment only. Start-up and training services will be provided by PumpTech, Inc.

Installation Services

- This proposal is for equipment. Installation services will be provided by PumpTech, Inc.

2 Technical Clarifications and Exclusions

A. Clarifications

1. This proposal reflects ClorTec equipment based on the below Specifications. Any exceptions/clarifications to specifications shall be listed below.
 - o 002 Request for Proposal – City of Black Diamond OSHGS
 - o Dwg No: M01 Proposed mechanical plan
2. Nested specifications and drawings not listed above were not used in the preparation of this proposal and are therefore not applicable
3. DNWT shall not be obligated to establish or verify the accuracy of the information furnished by the Customer or Engineer nor shall DNWT be responsible for the impact or effect on the Materials and any services provided based on the information furnished by the Customer or Engineer in the event that such information contains errors and/or omissions. DNWT design shall be based solely on the provided specifications and not the application. Any changes in the design or equipment selection shall be priced separately as a change order.
4. Inlet water and salt must meet the requirements stated in the standard operating conditions listed below for proper electrode operation and efficiency.
5. This proposal is based on supplying one set of four DC cables for each rectifier, each with standard length of 25 feet (total 100 linear feet). The length of cable will be physically measured during the installation of equipment and reported to DNWT prior to the shipment of cables to the job site. If the reported length exceeds 25 feet, a cost adder will apply.
6. A hydrogen detector for generator room is a required safety feature (Not Included in the above scope of supply). This proposal is based on utilizing the existing hydrogen detection system.
7. The proposed 12 PPD system shall have the capability for future expansion to 24 PPD. DNWT shall provide the adder price for the additional 12 PPD cell upon request.
8. This proposal is based on utilizing the existing 30 gallons brine tank.
9. Metering pumps to be controlled by owner's PLC (4-20mA signal to VFD).
10. Dosing pumps and Programming associated with the pumps to be provided by others.
11. All drains & water supply to be plumbed in by others.
12. Complete assemblies are defined as "factory pre-assembled." Otherwise, all system components reflected in the above scope will be supplied as loose items and will be assembled and INSTALLED in the field by the party performing the installation in accordance with ClorTec® recommendations. This includes all stands, backboards, skids, enclosures, panels, etc. and any associated devices or equipment.
13. PLC and HMI will be in English only. There will be an additional cost in case Spanish is required.

B. Exclusions:

1. Sales and all other taxes. (Taxes applicable will be ~~charged~~ ^{paid} by PumpTech, Inc.)
2. Permits, Licenses and fees. (Electrical permits needed will be secured by PumpTech, Inc.)
3. Civil, Structural, Architectural and Design work of any kind. *(Not needed)*
4. Startup, Training & Installation of the On-site Sodium Hypochlorite Generation System. (Provided by PumpTech, Inc.)
5. Startup, Training & Installation of hypochlorite tanks and accessories including but not limited to, ladders, railings, decking, fill lines and vent lines. (Provided by PumpTech, Inc.)
6. Interconnect pipe, pipe supports, valves and fittings not part of the equipment or installation material. *(by PumpTech)*
7. Electrical power to provided equipment or any other equipment
8. Underground conduit and piping, *if needed will be installed by Pump*
9. Injection line piping from any equipment to the injection point. *(Provided by Pump Tech)*
10. Feed water piped to the equipment. *(by PumpTech)*
11. All testing and system verifications other than DNWT ClorTec standards. *(by Pump Tech)*
12. Painting or special finishes other than manufacturer's standard. *(by Pump Tech)*
13. Salt for startup and operation. *(City of Black Diamond)*
14. Any consumables or chemicals required for start-up and operation. *(by PumpTech)*
15. Gravel for the brine tank – if applicable. *(by Pump Tech)*
16. Blower flexible connector – if applicable. *(by Pump Tech)*
17. Provided equipment anchor bolts. *(by Pump Tech)*
18. All items not specifically listed in the Scope of Supply above.

3 Commercial Scope (This section does not apply to the City of Black Diamond, only to PumpTech, Inc.)

A. Price and Payment Schedule

Pricing will be valid for 30 days from the date of this proposal and is based on DNWT's standard Terms and Conditions of Sale.

Payment is net 30 days after invoice (**with Approved credit**). All invoices to be submitted by the 25th day of the month or sooner. Interest to be billed at 1-½% per month on invoices unpaid after 30 days or the maximum allowable by law, whichever is less.

Payment shall be made as follows:

- 30% Invoiced upon order booking;
- 70% Invoiced upon notification of readiness to ship (Before shipment).

B. Validity of Pricing

This proposal and its amendments and supplements shall remain valid for **(90) days**, after which it may be subject to price change, unless extended in writing by DNWT.

C. Delivery Schedule

1. CPT- Jobsite.
2. Scheduled delivery of submittals: 4-6 weeks after the effective date of the purchase order. The effective date of the purchase order is the date by which the buyer and DNWT have signed the purchase order.
3. Review and return of initial submittals by the customer must be within 4 weeks of receipt. Any subsequent submittals must be reviewed and returned within 2 weeks of receipt.
4. Delivery of equipment scheduled 16-18 weeks after approved submittals.

D. Proposal Number Incorporation

The DNWT proposal P-16555/Q-7374 R0 must be incorporated as a part of any agreement if awarded this project. In case of conflict between the proposal and the specifications and terms and conditions the DNWT proposal and terms and conditions shall take precedence unless otherwise negotiated.

E. Submittals

When submittals of shop drawings are required for approval prior to delivery, the quantity of submittals will not exceed the quantity listed in the Engineering Services section above unless otherwise specified. Copies of the of the dimension drawings, product information, necessary installation flow schematics, wiring diagrams, and operating and instruction manuals for each product quoted shall be supplied at time of delivery unless otherwise specified. If additional copies are required, a cost of \$200/copy shall apply.

F. Clarifications

1. A standard DNWT liability and workers compensation insurance policy is in effect for this project. No other coverage will be allowed for without additional compensation for the cost of policy riders, adders, etc. and the approval of DNWT management.
2. Delay of equipment delivery imposed by Owner or Contractor beyond the mutually agreed written delivery date will constitute acceptance of title by Owner/Contractor and obligation for payment for equipment invoiced in accordance with the terms of payment of this Proposal. NOTE: DNWT will store equipment at our risk for ninety (90) days. Cost of storage for an extended period will be negotiated at that time. DNWT, however, reserves the right to charge for additional incurred costs to store, preserve, recondition, disassemble and reassemble equipment, as required or applicable, due to delay in shipment and startup beyond the period of six months after the agreed delivery date.
3. Installation, start-up and training for the equipment shall be performed within six months of shipment. If the equipment is not installed and started up within this period, and the equipment has been delivered to the destination in accordance with contract; the buyer will be required to preserve, disassemble and reassemble equipment, as required by DNWT for long-term storage, or the manufacturer's warranty will be voided. All manufacturer's costs to verify the equipment is in warrantable condition and any cost of repairs to restore the equipment to warrantable condition shall be borne by the buyer.

G. Warranty Rider

De Nora Water Technologies Texas, LLC, a De Nora company (henceforth referred to as DNWT) provides this Warranty Rider in conjunction with DNWT's Standard Terms & Conditions of Sale.

This Warranty Rider supplements and modifies the duration of the warranty period as set forth in Article 8 of the DNWT's Standard Terms & Conditions of Sale. The following warranty periods shall apply specifically and only to the provided equipment. DNWT warrants the provided equipment against defects in materials and workmanship for the time period listed below under normal use and service of which its products were designed as defined by the ClorTec Standard Operating Conditions delineated hereinafter. At its option, DNWT will repair, provide replacement or refurbish components.

Domestic Installations (within ClorTec's U.S.A & Canadian Service Network)

Equipment Warranty

The provided equipment is warranted for a period of 18 months after start-up or 24 months from transfer of title of the goods, whichever comes first. This warranty covers the provided equipment under normal use and service only (as defined by the ClorTec Standard Operating Conditions delineated hereinafter.)

Electrode Warranty

The electrodes are warranted under a prorated 7 year warranty period that begins at transfer of title. Should the electrodes fail during the first 2 years, the electrodes will be replaced free of charge. This warranty covers bare electrode excluding housing or ancillary components under normal use and service only (as defined by the ClorTec Standard Operating Conditions document).

This Warranty Rider additionally supplements and modifies as to clarify exclusions to Article 8 of the STDN's Standard Terms & Conditions of Sale.

Please note that the expected proven life of DNWT's standard cells is 10 years.

Exclusions

This warranty does not cover:

1. Consumable maintenance items including pH, chlorine & chemical probes, reagents or buffers, hydrogen sensor modules, and filter cartridges.
2. "Acts of God" or unavoidable natural disasters including but not limited to floods, storms, lightning, etc.
3. Theft, vandalism, or other damaging acts.
4. Intentional or accidental abuse, misuse, or neglect.
5. Failures or repairs resulting from the negligence to perform preventative maintenance in accordance with DNWT requirements.
6. Damages or defects in the product, which were caused by initial start-up, repairs or attempted repairs performed by anyone other than an DNWT authorized service provider.
7. Normal wear and tear.
8. Customer in default of any payment obligations to DNWT.
9. Abuse by abnormal system conditions including but not limited to temperature, chemical, or debris.
10. Goods that have been improperly stored by owner or its representatives prior to installation and start-up.
11. Equipment/programming which has been revised or altered by others.
12. Labor and expenses for removal and reinstallation of warranty parts.

H. System Efficiency

Provided that the standard operating conditions stipulated in **Section 5** below are met, the system's efficiency is projected to be a maximum salt consumption of 3.0 lb salt per lb of Cl₂ equivalent generated; and a maximum power consumption of 2.0 kW-hr DC per lb of Cl₂ equivalent generated.

4 ClorTec® Standard Operating Conditions

Proper system operation and electrode warranty is subject to the end-user meeting the following conditions:

A. Inlet Water Conditions

- Providing untreated drinking quality potable water.
- Inlet Water Temperature: Inlet water temperature must be between 65°F-80°F [18°C-27°C].
- Inlet Water Pressure: Water Pressure must be maintained per system Process & Instrumentation Diagram.

B. Salt Quality:

Must contain no organic binders, flow control agents or resin cleaning material, and meeting the following specifications

NaCl:	
-dry basis	96.3% minimum
-wet	93.3% minimum
Calcium Sulfate	0.30% maximum
Magnesium Chloride	0.06% maximum
Calcium Chloride	0.10% maximum
Magnesium Sulfate	0.02% maximum
Insolubles	0.1% maximum
Moisture (as H ₂ O)	3.0% maximum
Lead	0.0007% maximum
Copper	0.0003% maximum
Iron (as Fe)	0.002% maximum
Fluoride	0.00001% maximum
Manganese	<0.0002%

C. Water Quality:

Must be free of polymer additives, flocculants, coagulants and antiscalants. Salinity to electrolytic cell must be maintained above an average of 18,000 ppm Cl

pH	6.5 to 7.5
Hardness [Ca/Mg]	<10 ppm
Total Organic Carbon (TOC)	<2 ppm
Iron	<200 ppb
Manganese	<10 ppb
Nickel	<5 ppb
Fluoride	<1 ppm
Copper	<5ppb
Cl ₂ (free chlorine)	<2 ppm

D. Operational Logs

- A weekly log of water hardness at outlet of water softener must be maintained by end-user. (See Maintenance and Operation Log Book in Maintenance Kit.)
- Operational Log must be maintained detailing maintenance activities and system usage. (See Maintenance and Operation Log Book in Maintenance Kit.)

5 Standard Terms and Conditions of Sale (Refer to PumpTech, Inc. quote)

1. APPLICABLE TERMS

The sale of goods and related services (if any) hereunder (collectively, the "Product(s)") is limited to and made expressly conditional on Buyer's acceptance of these terms and conditions of sale. These terms and conditions shall control over any inconsistent or additional terms or conditions proposed or issued by Buyer or Seller, including any additional or different terms contained in any purchase order, acknowledgement, proposal or other communication, written or otherwise, unless specifically agreed to in writing by both parties.

~~Buyer's acceptance of delivery or the full or partial payment of the purchase price hereunder, shall constitute Buyer's acceptance of all the terms and conditions stated herein, notwithstanding any other inconsistent terms and conditions, prior dealings or usage of trade.~~

2. PRICES AND PAYMENT TERMS

Buyer shall pay the full purchase price as set forth in the applicable purchase order or on the face of that certain document to which these terms are attached ("Seller's Documentation"), (collectively with these terms and conditions, the "Contract") without any deduction by way of set-off, counterclaim, discount or otherwise. All prices and payments shall be in U.S. currency. Unless specifically noted otherwise in Seller's Documentation, prices are exclusive of any and all sales, use, excise, ad valorem, property or other taxes, duties or levies of any kind due or applicable to this transaction. Buyer shall pay directly or reimburse Seller immediately upon demand for any and all such taxes. Payment terms are Net Thirty (N30) Days from date of invoice.

Where payment is made by Letter of Credit, the applicable instructions as communicated in writing by Seller to Buyer shall determine the terms of payment thereunder. Where payment on credit terms is approved, payment terms are Net Thirty (30) Days from date of invoice. No discounts shall apply. Any payments delayed beyond thirty (30) days from the specified due date shall be subject to interest on the unpaid balance at the rate of one and one-half (1-1/2%) percent per month or the maximum rate permitted by applicable law, whichever is less. Seller reserves the right, among other remedies, to suspend further deliveries in the event Buyer fails to pay for any one shipment when payment becomes due. All Contracts are subject to credit approval. Should Buyer's financial condition become unsatisfactory to Seller, Seller shall have the right, at its option, to payment in advance, to cash payment upon delivery or to satisfactory security.

Buyer hereby irrevocably grants Seller a security interest in the Products until such time as Buyer makes full payment of the purchase price. Buyer agrees, if requested, to execute a financing statement as may be necessary to perfect and maintain such security interest including the execution and delivery to Seller of a UCC-1 financing statement.

3. DELIVERY AND RISK OF LOSS

Delivery dates set forth in Seller's Documentation are approximate and Seller will make all reasonable efforts to meet same. Timely delivery is subject to prompt receipt from Buyer of accurate and complete technical and shipping information. Seller reserves the right to make partial shipments, invoices for which shall be due and payable in accordance with the payment terms specified above. Where payment is due in advance or by Letter of Credit, timely delivery is further subject to timely receipt of such payment or issuance of such Letter of Credit. All shipping and handling costs are to be paid by Buyer. Buyer is liable for compliance with all laws and regulations governing the unloading, storage, handling and use of all Products.

Whether or not installation services are performed by Seller, title and risk of loss shall pass to Buyer in accordance with the stated shipping terms under Incoterms 2010. Unless otherwise agreed and specified on the purchase order or Seller's Documentation, shipping terms are EXW-Seller's Facility. Seller will notify Buyer when Products are available for shipment. Buyer must provide Seller with specific written instructions as to Buyer's preferred method of shipment or common carrier. If Buyer does not arrange for a freight carrier or freight forwarder to collect the Products within seven (7) calendar days following notification that the Products are available, Seller may, at its own discretion and at Buyer's cost, arrange for Products to be collected by a freight carrier or freight forwarder for shipment to Buyer. Alternatively, Seller may choose to store the Products and may charge Buyer a storage fee.

In the event Buyer requests a postponement of delivery beyond the date specified in Seller's Documentation, Seller may invoice the Buyer and title and risk of loss shall pass to Buyer at such time as Products are made available for shipment, but in no event earlier than the delivery date specified in Seller's Documentation. If delivery is postponed by Buyer, Seller shall endeavor but shall not have the obligation to either store the Products or secure a storage location at Buyer's expense and based upon terms and conditions agreeable to the parties.

→ These terms and conditions do not apply to the City of Black Diamond, only to PumpTech, Inc. Lett B. 2-22-2016 5-1

Prior to installation, ~~Products must be stored by Buyer in accordance with the storage instructions that may be a part of Seller's instructions for Products installation, maintenance and care.~~ In the absence of specific instructions, Products must be stored prior to their installation in an enclosed space affording protection from weather, dust and physical damage and providing appropriate temperature, humidity and ventilation conditions to prevent deterioration. Buyer's failure to follow Seller's storage instructions may cause damage to the Products and will void the warranties provided hereunder. Seller shall have the right to inspect Products stored by Buyer prior to installation. If Products are stored by Buyer for a period of 90 days or more, Buyer shall reimburse Seller for all reasonable costs of inspection.

4. PERMITS, REGISTRATIONS AND LAWS

Buyer is responsible for all permits and registrations and for compliance with local laws concerning permitting, registration, installation and use of the Products. Buyer shall indemnify and hold harmless Seller from any and all costs, damages, fines and penalties resulting from Buyer's failure to comply with local laws, permits and regulations. Buyer shall strictly comply with and refrain from exporting or re-exporting the Products in violation of United States' laws regarding trade restrictions and embargoes, as such laws may be amended from time to time. Unless otherwise agreed according to the specified Incoterms governing shipment of the Products, Seller shall have no obligation or liability for export clearance, customs clearance or import duties of any kind.

Seller may provide reimbursement to Buyer or Buyer's representative, either directly or indirectly through intermediaries, for their reasonable and bona fide travel and lodging expenses in connection with Buyer's purchase of Products hereunder. Any such reimbursement is NOT a payment, gift, offer or promise of any thing of value, but is rather provided to Buyer for the sole purpose of reimbursing Buyer's reasonable travel and lodging expenses related to the promotion, demonstration or explanation of the Products being offered by Seller to Buyer. Should Seller discover that a violation of the U.S. Foreign Corrupt Practices Act or the UK Bribery Act 2010 has occurred or is likely to occur, Seller shall have the right to unilaterally terminate the Contract.

5. PRODUCT ACCEPTANCE

Except for Products that are not assembled at Seller's facility, Buyer has the right to inspect Products at Seller's facility prior to shipment provided that advance written arrangements are made by Buyer and are confirmed in writing by Seller. Any and all costs associated with inspection and testing requested by Buyer at Seller's facility will be paid by Buyer. Buyer shall inspect the Products within a reasonable period of time following receipt at the point of destination and prior to conducting any Acceptance Test (as defined below) to determine if the Products are damaged, incomplete or do not otherwise conform to Buyer's request. If Buyer receives Products with visible or suspected damage or loss, including damages to the packaging, or with discrepancies in specification, Buyer shall make relevant notes in receiving documents and notify Seller immediately. Such notice shall be reasonably detailed and shall specify the damage or discrepancy. Buyer's failure to inspect the Products and give written notice to Seller of any alleged defects or non-conformity within a reasonable period of time after receipt at the point of destination shall waive Buyer's right to reject the Products and return them to Seller for credit and Buyer's sole remedy for nonconforming or defective Products shall be warranty claims made in accordance with Article 7 herein.

For purposes of this Article 5, "reasonable period of time" means a period of time that is not immoderate or excessive, in accordance with industry standards.

If Seller's Documentation provides that the Products are subject to specific acceptance testing (the "Acceptance Test") in order to verify Product performance in accordance with agreed specifications, the Products shall be deemed fully accepted when they have satisfied the requirements of the Acceptance Test. Buyer's remedy for Products that have failed an Acceptance Test or are in the warranty period shall be limited, at Seller's sole discretion, to the repair or replacement of such Products.

Notwithstanding any right conferred upon the Buyer to inspect or test the Products prior to acceptance, any use or alteration of the Products by Buyer, its agents, employees or licensees, for any purpose after delivery thereof, shall constitute Buyer's irrevocable acceptance of the Products. Accordingly, in the event of any discovery by Buyer of a non-conformity or defect following such acceptance of the Products, Buyer's sole recourse is a warranty claim pursuant to the warranty provisions stated in Article 7 herein.

6. INSTALLATION AND/OR START UP SERVICES

If Seller's scope of supply includes installation supervision and/or start up services, Buyer will confirm to Seller at least two (2) weeks prior to the date Seller's personnel will be required on site to perform such services that Buyer has fully completed all work necessary for such installation and/or start up services in accordance with Seller's instructions. In the event that the completion of such services is delayed by Buyer for any reason not the fault of Seller following Seller's arrival on site, Buyer shall pay for any additional costs resulting from the delay.

To the extent that Seller's scope of supply includes supervising the installation of the Products, Seller shall not be responsible for the means and methods selected for such installation, nor for the manner in which such

This section does not apply to the City of Black Diamond, only to Pump Tech, Inc. Keith B. 2-22-2016

This section does not apply to the City of Black Diamond, only to Pump Tech, Inc. Seth B. 2-22-2016

installation services are performed, including the efficiency, adequacy and safety of same. Seller makes no warranty, express or implied, with respect to such installation and/or start up services, except that the Seller shall be responsible for any claims or damages resulting from its own negligence.

7. CANCELLATION

Unless otherwise provided in Seller's Documentation, if Buyer cancels or partially cancels a Contract, Buyer shall promptly pay Seller for all work performed on account of the Products prior to cancellation plus any other reasonable costs incurred by Seller as a result of such cancellation including, if applicable, an appropriate restocking fee.

8. WARRANTY

Subject to the conditions stated below, Seller warrants the Products against defects in materials and workmanship for a period of eighteen (18) months from the date in which title has passed to Buyer or twelve (12) months from the date of installation of the Products, whichever occurs first. Seller shall, at its option, repair or replace any Products or components thereof that prove upon examination to the satisfaction of Seller to be defective. In addition, any part or component that has been repaired or replaced shall be warranted for a period equal to the longer of (i) the remaining warranty period hereunder; or (ii) one year from the date of such repair or replacement.

In the event that Seller fails to initiate a corrective action plan to repair or replace the defective components within ten (10) days following Buyer's notification, Buyer may, at their option, take action to repair or replace such defective product and Seller shall bear the direct and commercially reasonable cost for parts and labor thereof. In such circumstances, Seller has no warranty obligation with regard to the repair or replacement performed by Buyer. Further, if Buyer improperly repairs or replaces the defective Products and/or uses incompatible components, Seller is not responsible for any costs, damages or malfunctions resulting therefrom.

Any alteration, disassembly, storage or use of the Products not in accordance with Seller's instructions shall void the warranty. Buyer assumes full responsibility in the event Buyer uses the Products in combination with other goods or in any manner not stated in Buyer's specifications provided prior to sale.

All costs associated with removing the Products from service and re-installing same following examination, repair or replacement are to be borne by Buyer. Seller may, in its sole discretion, require that the Products be shipped to Seller's facility for examination, repair or replacement. All transportation costs to and from Seller's facility, if required, are to be prepaid by Buyer.

THE WARRANTIES SET FORTH HEREIN, IF ANY, ARE MADE EXPRESSLY IN LIEU OF OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND ANY IMPLIED WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, EVEN IF THAT PURPOSE IS KNOWN TO SELLER, IS HEREBY EXPRESSLY EXCLUDED; PROVIDED, HOWEVER, THAT THE PRODUCTS ARE WARRANTED TO CONFORM IN ALL MATERIAL RESPECTS TO THE RELEVANT AND KNOWN SPECIFICATIONS, AND PERFORMANCE STANDARDS, INCLUDING ANY MUTUALLY AGREED MODIFICATIONS THERETO.

SELLER'S LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY FAILURE BY SELLER TO SUPPLY PRODUCTS THAT MEET THE FOREGOING WARRANTY IS EXPRESSLY LIMITED TO, AT SELLER'S OPTION, THE REPAIR OR REPLACEMENT OF THE NON-CONFORMING PRODUCTS.

9. INDEMNIFICATION

Buyer and Seller shall each defend, indemnify and hold the other harmless from and on account of all bodily injury and property damage claims asserted by third parties as a result of the other's negligent acts or omissions. To the extent that both Buyer and Seller are determined by a finder of fact to be negligent and the negligence of both is a proximate cause of a claim by a third party against either Buyer or Seller, then in such event, Buyer and Seller shall each be responsible for a portion of the liability, including costs and expenses, attributable to its comparative share of the total negligence.

Seller agrees to indemnify and hold harmless Buyer against any third party claim alleging that the Products infringe upon a valid and enforceable United States patent, provided Buyer gives Seller written notice immediately when such claim is asserted, directly or indirectly. Notwithstanding the foregoing, Seller shall have no liability to Buyer if any patent infringement or claim thereof is based upon or arises out of

- (a) compliance with designs, plans or specifications furnished by or on behalf of Buyer;
- (b) use of the Products in a manner for which the Products were neither designed nor contemplated; or
- (c) the claimed infringement of any patent in which the Buyer or any affiliate or subsidiary of Buyer has any direct or indirect interest by license or otherwise.

This section does not apply to the City of Black Diamond, Seth B. 2-22-2016

The city of Black Diamond and Pump Tech are beneficiaries of this warranty. Seth B. 2-22-2016

~~10. LIMITATION OF LIABILITY~~

Seller's total aggregate liability to Buyer with respect to any cause of action or claim hereunder shall not exceed the purchase price payable hereunder.

In no event shall Seller be liable, either directly or as indemnitor of Buyer, for any special, punitive, indirect or consequential damages, including but not limited to damages for loss of use, loss of income or loss of profit.

Notwithstanding the above, this limitation of liability shall not apply to claims arising from Seller's gross negligence or willful misconduct.

All of Buyer's claims or actions of any description whatsoever against the Seller shall be brought not later than one (1) year after the occurrence of the event upon which each such claim or action is based.

11. FORCE MAJEURE

Force Majeure shall mean any act, event or condition that is beyond Seller's reasonable control, that materially and adversely affects Seller's ability to perform its obligations hereunder, and that is not the result of Seller's willful neglect, error, omission or failure to exercise reasonable due diligence.

Seller shall not be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. If Seller is unable to perform any of its obligations hereunder as a result of a Force Majeure event, Seller shall be required to resume performance upon termination of the event and shall have reasonable additional time for performance.

In addition, to the extent that a Force Majeure event materially increases Seller's cost of performance hereunder, Seller shall be entitled to an equitable contribution from Buyer towards such additional costs of performance, excluding any costs that are covered by Seller's insurance.

12. DEFAULT AND TERMINATION

The substantial failure of either party to comply with the terms herein shall constitute default hereunder. Upon default by one party, the other nondefaulting party shall provide written notice clearly specifying the nature of the default. The defaulting party shall have thirty (30) days to cure the default. If the default is capable of being cured within thirty (30) days and is not cured within thirty (30) days, this Contract may be terminated. In the case of default that cannot be cured within thirty (30) days, this Contract shall not be terminated so long as the defaulting party has given written notice of extension to the other party and the defaulting party has commenced and is diligently pursuing a cure.

For purposes of this Contract, the failure of Buyer to pay Seller in accordance with the payment terms hereunder shall be considered a substantial default for which no cure period beyond thirty (30) days shall be allowed. In the event of the Buyer's default, Seller may, in addition to the right to terminate set forth in this paragraph, elect to suspend work until the default has been cured.

In the event of any termination, Seller shall be paid for Products delivered and services rendered (including Products specifically manufactured/assembled or special ordered for the Buyer that have yet to be supplied) through the date of termination.

No delay or omission on the part of the Seller in exercising any right or remedy hereunder shall constitute a waiver of any such right or remedy on any future occasion.

13. INTELLECTUAL PROPERTY

All devices, equipment, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Seller in connection with the Products sold hereunder shall remain Seller's exclusive property. Buyer shall not disclose any such material to third parties without Seller's prior written consent.

Buyer will not undertake any analyses or "reverse engineering" of the products for the purpose of designing, developing or manufacturing by the Buyer or by any third party of products that compete with the Product(s).

Seller will retain sole ownership of all discoveries, improvements, inventions, patents, trademarks, copyrights, know-how, trade secrets, or other intellectual property rights associated in any way with the Products. The parties specifically agree that all improvements, inventions, discoveries and copyright in works of authorship, including those in formative stages, made by either party hereto (either alone or jointly with others) improving upon or related to the Products shall from the time of conception or, in the case of works of authorship, from the time of creation, be the property of Seller.

→ This section does not apply to the City of Black Diamond. Keith B. 2-22-20

~~14. RELIANCE ON INFORMATION~~

~~Buyer acknowledges that Seller has used and relied upon information provided by the Buyer, if any, regarding site conditions, specifications and other technical requirements in the design, installation and start-up of its Product(s). Seller shall not be obligated to establish or verify the accuracy of the information furnished by the Buyer nor shall Seller be responsible for the impact or effect on its Products(s) and any services provided by Seller hereunder of the information furnished by the Buyer in the event that such information is in error.~~

~~15. DISPUTE RESOLUTION~~

~~Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in New York, New York, USA, or other location agreed by the parties, before a sole arbitrator, conducted in the English language in accordance with the ICC Arbitration Rules as currently in force, administered by the ICC. Judgment on the arbitration award may be entered in and enforced by any court of competent jurisdiction.~~

~~16. MISCELLANEOUS PROVISIONS~~

~~These terms and conditions constitute the entire Contract of sale and purchase between Buyer and Seller and supersede all prior or contemporaneous communications, representations, understandings or agreements, whether written or oral, unless such document states that it intends to modify this Contract and is signed by both parties. No modification of this Contract (including changes in scope, specifications, price or delivery schedule) shall be of any force or effect unless made pursuant to a writing signed by both parties. No course of dealing or performance or usage of trade may be used to modify this Contract.~~

~~The English language shall be the official text of this Contract. No modification of this Contract (including changes in scope, specifications, price or delivery schedule) shall be of any force or effect unless made in writing, in English, signed by both parties. No course of dealing or performance or usage of trade may be used to modify this Contract.~~

~~The failure on the part of either party to enforce its rights as to any provisions herein shall not be construed as a waiver of its rights to enforce such provisions in the future.~~

~~Should any provision of this Contract for any reason be declared invalid or void, such declaration will not affect the remaining provisions of this Contract, which shall remain in full force and effect.~~

~~Buyer may not assign or permit any other transfer of this Contract without Seller's prior written consent. Buyer acknowledges that Seller shall be entitled to manufacture or have manufactured the Products at any of its or its partners' facilities worldwide. The Seller shall inform the Buyer of any change to the manufacturing location of any of the Products and the parties shall sign any further documents required to give effect to the intent of this provision.~~

~~This Contract is entered into solely between, and may be enforced only by, the Buyer and Seller; and this Contract shall not be deemed to create any rights in third parties, including customers of the Buyer, or to create any obligations to any such third parties.~~

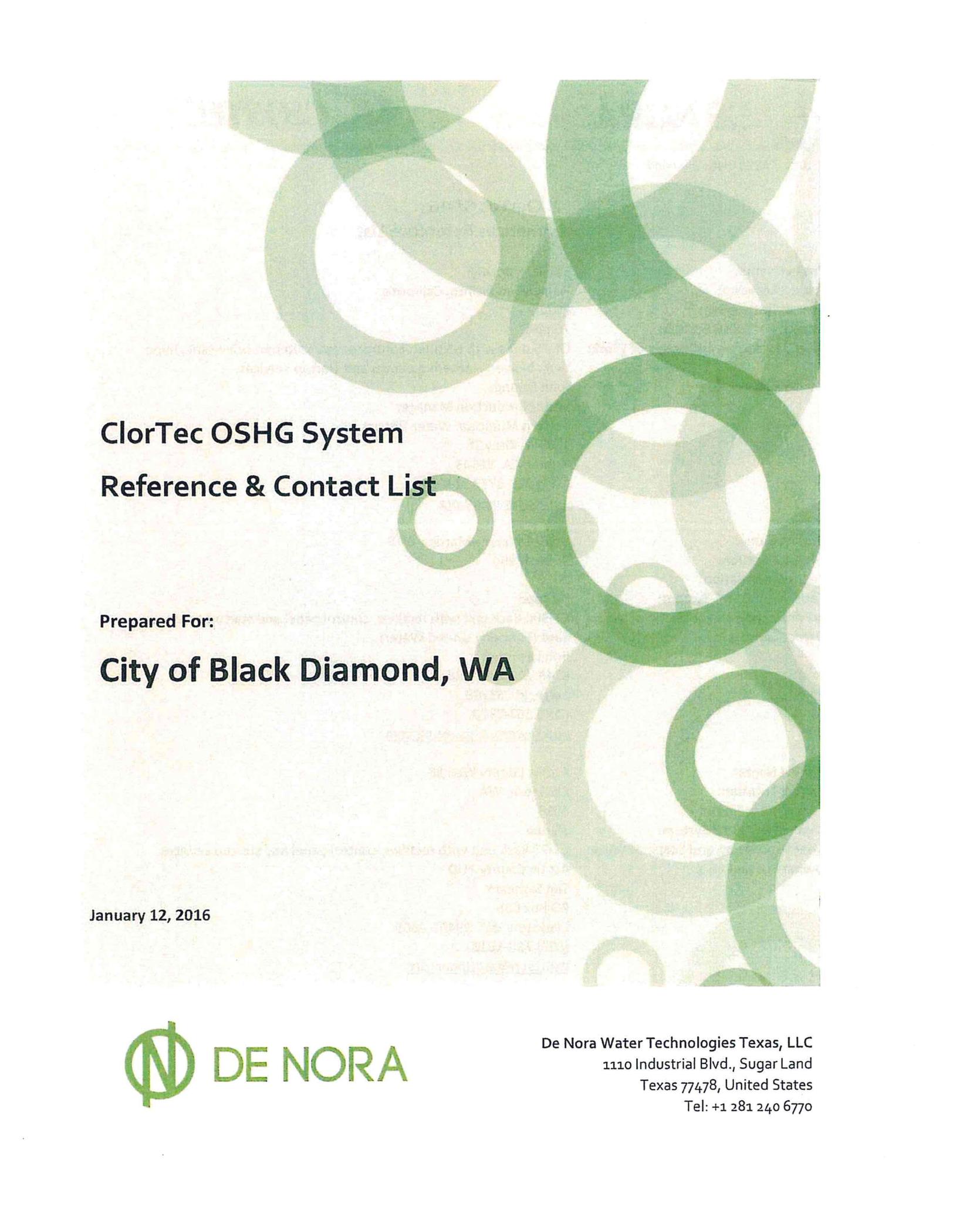
~~These terms and conditions shall be governed by and construed in accordance with the laws of the United States of American, State of Texas. The United Nations Convention on Contracts for the International Sale of Goods ("CISG") shall not apply to this Contract.~~

→ This section does not apply
to the City of Black Diamond.
Aeth B. 2-22-2016



Section 2

Project References



ClorTec OSHG System Reference & Contact List

Prepared For:

City of Black Diamond, WA

January 12, 2016



De Nora Water Technologies Texas, LLC
1110 Industrial Blvd., Sugar Land
Texas 77478, United States
Tel: +1 281 240 6770



P-16555 City of Black Diamond



ClorTec OSHG Partial Americas Reference List

Project Name: EMWD Well #89
Project Location: Hemet/San Jacinto, California
Year of Installation: 2012
Capacity of OSHG System: 75 ppd
Brief Description and Scope of Work: CT-75 units with rectifier, control panel, softener, brine tank, hypo tank, blowers, metering pumps and startup services.
Owner Contact Info: John Dotinga
Water Production Manager
Eastern Municipal Water District
1283 N. Kirby St.
Hemet, CA 92543
(951) 928-3777 x7301
dotingaj@emwd.org

Project Name: United Water - Marden WTP
Project Location: Boise, Idaho
Year of Installation: 2014
Capacity of OSHG System: 300 ppd
Brief Description and Scope of Work: CT-300 Rack unit with rectifier, control panel and startup services.
Owner Contact Info: Suez (Formerly United Water)
Bob Lawrence
8248 W. Victory Rd.
Boise, Id. 83709
(208) 362-7370
Bob.Lawrence@suez-na.com

Project Name: Asotin County Well #6
Project Location: Clarkston, WA
Year of Installation: 2013
Capacity of OSHG System: 75 ppd
Brief Description and Scope of Work: CT-75 Rack unit with rectifier, control panel and startup services.
Owner Contact Info: Asotin County PUD
Tim Simpson
PO Box 605
Clarkston, WA 99403-0605
(509) 758-1010
tsimpson@asotinpud.org

Our research - your future



P-16555 City of Black Diamond

Project Name: City Of Maple Ridge, Grant Mountain Pump Station
Project Location: Maple Ridge, BC, Canada
Year of Installation: 2012
Capacity of OSHG System: 12 ppd
Brief Description and Scope of Work: MCT-12 Skid unit including power supply, controls, softener, tanks and water heater.
Owner Contact Info: Bruce Gailling
District of Maple Ridge
23925 Dewdney Trunk Road
Maple Ridge BC V4R1W1
Canada
Work: 604-463-5221
Mobile: 778-628-7240
bgailling@mapleridge.ca

Project Name: Village of Clinton
Project Location: Clinton, BC, Canada
Year of Installation: 2010
Capacity of OSHG System: 12 ppd
Brief Description and Scope of Work: MCT-12 Panel mounted unit with power supply, control panel, softener, brine tank, heater, blowers, acid cart and startup services.
Owner Contact Info: Karl Hansen
Village of Clinton
Clinton, BC, Canada
Work: (250) 459-2261
Mobile: (250) 457-7393
khansen@village.clinton.bc.ca

Our research - your future



REFERENCES & MAJOR PROJECTS 2016

PROJECT: City of Warden
NAME OF OWNER: City of Warden
CONTACT PERSON: Kristine Shuler
PHONE: (509) 349-2326
PRIMARY CONTRACTOR: POW Contracting
CONTRACT AMOUNT: \$500,000.00
APPROX. DATE COMPLETED: February 2016
COMMENTS: Flowserve BJ Submersible with VFD and pump rehab with new motor and VFD
ENGINEER: Gray & Osborne Engineers

PROJECT: Anacortes Water Treatment Plant River Intake Pump
NAME OF OWNER: City of Anacortes
CONTACT PERSON: Jeff Mars
PHONE: (360) 428-1598
PRIMARY CONTRACTOR: Award Construction
CONTRACT AMOUNT: \$180,000.00
APPROX. DATE COMPLETED: August 2014
COMMENTS: Byron Jackson / Ruhrpumpen
ENGINEER: HDR Engineering

PROJECT: Boeing 777X40-57
NAME OF OWNER: Boeing
CONTACT PERSON: Dean Gray
PHONE: (206) 300-8168
PRIMARY CONTRACTOR: Hoffman Construction
CONTRACT AMOUNT: \$1,506,914.00
APPROX. DATE COMPLETED: December 2014
COMMENTS: Paco Split Case Pumps
ENGINEER: BRPH – James Woodard / (321) 751-3150

PROJECT: Pottery Avenue Lift Station
NAME OF OWNER: City of Port Orchard
CONTACT PERSON: Dan Castillo
PHONE: (360)876-2722
PRIMARY CONTRACTOR: Rush Developement
CONTRACT AMOUNT: \$160,000.00
APPROX. DATE COMPLETED: September 2014
COMMENTS: Vaughan
ENGINEER: RH2 Engineering

PROJECT: Pasco WWTP Aeration System Upgrades
NAME OF OWNER: City of Pasco
CONTACT PERSON: Reuel Klempel
PHONE: (509) 544-3083
PRIMARY CONTRACTOR: City of Pasco
CONTRACT AMOUNT: \$250,000.00
APPROX. DATE COMPLETED: November 2013
COMMENTS: ABS HST Blowers
ENGINEER: HDR Engineering

PROJECT: Chief Joseph Fish Hatchery Phase 2
NAME OF OWNER: Bonneville Power Administration
CONTACT PERSON: Pat Phillips
PHONE / EMAIL: (509) 631-1970 / patrick.phillips@colvilletribes.com
PRIMARY CONTRACTOR: PCL Construction Services
CONTRACT AMOUNT: \$532,840.00
APPROX. DATE COMPLETED: January 2013
COMMENTS: Supply and install of several Peerelss Vertical Turbine well pumps along with the supply of ABS submersible pumps at the reclamation ponds.
ENGINEER: Tetra Tech—Darrel Nice
(509) 744-9271/darrel.nice@tetrattech.com

PROJECT: KID Kiona Intake- Red Mountain South LID
NAME OF OWNER: Kennewick Irrigation district
CONTACT PERSON: Kyle Pettibone--Engineer
PHONE: (425) 951-5360 (work) kpettibone@rh2.com
PRIMARY CONTRACTOR: Pacific Crest Construction
CONTRACT AMOUNT: \$610,000.00
APPROX. DATE COMPLETED: October 2014
COMMENTS: This project consisted of 5 Peerless Vertical turbine pumps installed into a river intake structure on the Yakima River
ENGINEER: RH2 Engineers—Kyle Pettibone
(425) 951-5360 (work) kpettibone@rh2.com

PROJECT: City of Coeur d'Alene Phase 5C.1 WWTP Upgrades
NAME OF OWNER: City of Coeur D' Alene, ID
CONTACT PERSON: Casey Fisher
PHONE: (208) 769-2346/CFISHER@cdaid.org
PRIMARY CONTRACTOR: Williams Brothers Construction
CONTRACT AMOUNT: \$134,965.90
APPROX. DATE COMPLETED: November 2014
COMMENTS: This project included ABS submersible pumps & blowers
ENGINEER: HDR-Michael Zeltner
(208) 387-7089 / Michael.Zeltner@hdrinc.com

PROJECT: Cashmere Waste Water Treatment Facility Upgrades
NAME OF OWNER: City of Cashmere, WA
CONTACT PERSON: Bob Schmidt
PHONE: (509) 782-3513/bob@citofcashmere.org
PRIMARY CONTRACTOR: Harbor Pacific Contractors
CONTRACT AMOUNT: \$144,623.64
APPROX. DATE COMPLETED: September 2013
COMMENTS: Project included several ABS submersible pumps and Boosterpaq
ENGINEER: RH2 Engineering—Kyle Pettibone
(425) 951-5360 (work) / kpettibone@rh2.com

PROJECT: Clarkston Waste Water Treatment Facility Upgrades
NAME OF OWNER: City of Clarkston, WA
CONTACT PERSON: Weslson
PHONE: (509) 758-1674/wwtp@clarkston.com
PRIMARY CONTRACTOR: Williams Brothers Construction
CONTRACT AMOUNT: \$150,000.00
APPROX. DATE COMPLETED: September 2014
COMMENTS: Included ABS pumps and mixers and Vaughan Chopper pumps
ENGINEER: Keller Engineering—Jason King
(208) 288-1992 / jking@kellerassociates.com

PROJECT: City of Newport Lakewood Hills Pump Station
NAME OF OWNER: City of Newport
CONTACT PERSON: Lanny Schulze
PHONE: (541) 574-5874
PRIMARY CONTRACTOR: Clackamas Construction
CONTRACT AMOUNT: \$365,445.00
APPROX. DATE COMPLETED: November 2014
COMMENTS: 14'x26'x8' pre-fab blazer building with Boosterpaq BQ10337-R3,
two CR10-3, and two CR90-2-2, 3ph 230v. with two CU352 controllers.
ENGINEER: Civil West Engineering

PROJECT: Lyons-Mehama Water District Booster Pump Station
NAME OF OWNER: Lyons-Mehama Water District
CONTACT PERSON: Bill Grimes
PHONE: (503) 859-2367
PRIMARY CONTRACTOR: Clackamas Construction
CONTRACT AMOUNT: \$249,897.00
APPROX. DATE COMPLETED: July 2014
COMMENTS: 14'x20'x8' pre-fab blazer building with two Grundfos CR5-4, 25 GPM AT
86' TDH, 1.5HP, 3450 RPM, 460/3/60 domestic pumps, and two Paco
5070-7.VL, 1000 GPM AT 147' TDH, 50HP, 1800 RPM 460/3/60 fire flow
pumps.
ENGINEER: CH2M Hill Engineering



Section 3

Operation and Maintenance Considerations

**On-Site Sodium Hypochlorite Generation System
Estimated Whole-Life Cost Comparison**

Prepared For: City of Black Diamond, WA

Project Name: City of Black Diamond,
North Bank Pump Facility



Treatment Plant Information

Instantaneous Flow gpm	400.00
Flow Mgd	0.58
Chlorine Dose ppm	1.00
Duty Time	100%
Annual Oxidizer Demand Pounds Cl ₂	1,752
Oxidizer Demand Pounds Cl ₂ Per Day	5

Capital Cost

ClorTec OSHG	\$ 48,125.00
Chlorine Gas	\$ -
12% Bulk Sodium Hypochlorite	
Competitor OSHG	

Raw Material Concentration

Chlorine Gas	0%
NaOCl 12% (Degraded By 15%)	

OSHG Raw Material Consumption

DNWT ClorTec OSHG	
Salt Pounds per Pound Cl ₂ Equivalent	3.0
Power kWh per Pound Cl ₂ Equivalent	2.0
Competitor OSHG	
Salt Pounds per Pound Cl ₂ Equivalent	
Power kWh per Pound Cl ₂ Equivalent	

Raw Material Cost

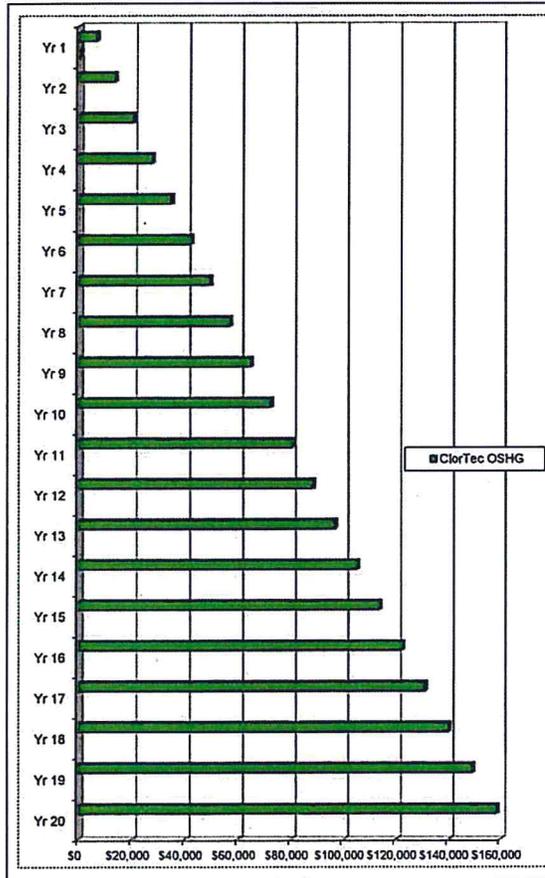
Chlorine Gas per Pound	\$ -
12% Bulk Sodium Hypochlorite Cost per Gallon	
Salt Cost per Pound	\$ 0.125
kWh Cost	\$ 0.0820
Fully Burdened Labour Cost Per Hour	\$ 25.00

Estimated Annual Plant Operation Labor (Hours)

DNWT ClorTec OSHG	100.00
Chlorine Gas	-
12 % Sodium Hypochlorite	
Competitor OSHG	-

Price Escalation

Chemical Price Index	104%
Consumer Price Index	103%



**On-Site Sodium Hypochlorite Generation System
Estimated Whole-Life Cost Comparison**

Prepared For: City of Black Diamond, WA

North Bank Pump Facility

Project Name: City of Black Diamond, WA

North Bank Pump Facility

10 Year Whole Life Cost Comparison \$61,481.55

ClorTec OSHG

YEAR 1

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$944.33
Plant Operation Labor	\$2,500.00
TOTAL COST (yr. 1)	\$6,731.64
<i>ClorTec (yr. 1)</i>	<i>-\$6,731.64</i>

YEAR 2

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$972.66
Plant Operation Labor	\$2,575.00
TOTAL COST (yr. 2)	\$6,834.97
TOTAL CUMULATIVE COST	\$13,566.62
<i>ClorTec (yr. 1-2)</i>	<i>-\$13,566.62</i>

YEAR 3

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,001.84
Plant Operation Labor	\$2,652.25
TOTAL COST (yr. 3)	\$6,941.40
TOTAL CUMULATIVE COST	\$20,508.02
<i>ClorTec (yr. 1-3)</i>	<i>-\$20,508.02</i>

YEAR 4

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,031.89
Plant Operation Labor	\$2,731.82
TOTAL COST (yr. 4)	\$7,051.03
TOTAL CUMULATIVE COST	\$27,559.05
<i>ClorTec (yr. 1-4)</i>	<i>-\$27,559.05</i>

ClorTec OSHG

YEAR 5

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,062.85
Plant Operation Labor	\$2,813.77
TOTAL COST (yr. 5)	\$7,163.94
TOTAL CUMULATIVE COST	\$34,722.98
<i>ClorTec (yr. 1-5)</i>	<i>-\$34,722.98</i>

YEAR 6

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,094.73
Plant Operation Labor	\$2,898.19
TOTAL COST (yr. 6)	\$7,280.24
TOTAL CUMULATIVE COST	\$42,003.22
<i>ClorTec (yr. 1-6)</i>	<i>-\$42,003.22</i>

YEAR 7

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,127.58
Plant Operation Labor	\$2,985.13
TOTAL COST (yr. 7)	\$7,400.02
TOTAL CUMULATIVE COST	\$49,403.24
<i>ClorTec (yr. 1-7)</i>	<i>-\$49,403.24</i>

YEAR 8

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,161.40
Plant Operation Labor	\$3,074.68
TOTAL COST (yr. 8)	\$7,523.40
TOTAL CUMULATIVE COST	\$56,926.65
<i>ClorTec (yr. 1-8)</i>	<i>-\$56,926.65</i>

ClorTec OSHG

YEAR 9

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,196.25
Plant Operation Labor	\$3,166.93
TOTAL COST (yr. 9)	\$7,650.49
TOTAL CUMULATIVE COST	\$64,577.14
<i>ClorTec (yr. 1-9)</i>	<i>-\$64,577.14</i>

YEAR 10

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,232.13
Plant Operation Labor	\$3,261.93
TOTAL COST (yr. 10)	\$7,781.38
TOTAL CUMULATIVE COST	\$72,358.52
<i>ClorTec (yr. 1-10)</i>	<i>-\$72,358.52</i>

ClorTec OSHG

YEAR 11

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,269.10
Plant Operation Labor	\$3,359.79
TOTAL COST (yr. 11)	\$7,916.20
TOTAL CUMULATIVE COST	\$80,274.72
<i>ClorTec (yr. 1-11)</i>	<i>-\$80,274.72</i>

YEAR 12

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,307.17
Plant Operation Labor	\$3,460.58
TOTAL COST (yr. 10)	\$8,055.07
TOTAL CUMULATIVE COST	\$88,329.80
<i>ClorTec (yr. 1-10)</i>	<i>-\$88,329.80</i>

ClorTec OSHG

YEAR 13

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,346.39
Plant Operation Labor	\$3,564.40
TOTAL COST (yr. 9)	\$8,198.10
TOTAL CUMULATIVE COST	\$96,527.90
<i>ClorTec (yr. 1-9)</i>	<i>-\$96,527.90</i>

YEAR 14

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,386.78
Plant Operation Labor	\$3,671.33
TOTAL COST (yr. 10)	\$8,345.43
TOTAL CUMULATIVE COST	\$104,873.33
<i>ClorTec (yr. 1-10)</i>	<i>-\$104,873.33</i>

ClorTec OSHG

YEAR 15

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,428.38
Plant Operation Labor	\$3,781.47
TOTAL COST (yr. 9)	\$8,497.17
TOTAL CUMULATIVE COST	\$113,370.50
<i>ClorTec (yr. 1-9)</i>	<i>-\$113,370.50</i>

YEAR 16

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,471.23
Plant Operation Labor	\$3,894.92
TOTAL COST (yr. 10)	\$8,653.47
TOTAL CUMULATIVE COST	\$122,023.97
<i>ClorTec (yr. 1-10)</i>	<i>-\$122,023.97</i>

ClorTec OSHG

YEAR 17

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,515.37
Plant Operation Labor	\$4,011.77
TOTAL COST (yr. 9)	\$8,814.45
TOTAL CUMULATIVE COST	\$130,838.42
<i>ClorTec (yr. 1-9)</i>	<i>-\$130,838.42</i>

YEAR 18

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,560.83
Plant Operation Labor	\$4,132.12
TOTAL COST (yr. 10)	\$8,980.27
TOTAL CUMULATIVE COST	\$139,818.68
<i>ClorTec (yr. 1-10)</i>	<i>-\$139,818.68</i>

YEAR 19

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,607.66
Plant Operation Labor	\$4,256.08
TOTAL COST (yr. 9)	\$9,151.05
TOTAL CUMULATIVE COST	\$148,969.74
<i>ClorTec (yr. 1-9)</i>	<i>-\$148,969.74</i>

YEAR 20

Capital Cost Amortization	\$3,234.76
Annual Maintenance	\$52.56
Operation Raw Materials	\$1,655.88
Plant Operation Labor	\$4,383.77
TOTAL COST (yr. 10)	\$9,326.97
TOTAL CUMULATIVE COST	\$158,296.70
<i>ClorTec (yr. 1-10)</i>	<i>-\$158,296.70</i>

Cumulative Cost Comparison Summary

	ClorTec OSHG
Yr 1	\$6,731.64
Yr 2	\$13,566.62
Yr 3	\$20,508.02
Yr 4	\$27,559.05
Yr 5	\$34,722.98
Yr 6	\$42,003.22
Yr 7	\$49,403.24
Yr 8	\$56,926.65
Yr 9	\$64,577.14
Yr 10	\$72,358.52
Yr 11	\$80,274.72
Yr 12	\$88,329.80
Yr 13	\$96,527.90
Yr 14	\$104,873.33
Yr 15	\$113,370.50
Yr 16	\$122,023.97
Yr 17	\$130,838.42
Yr 18	\$139,818.68
Yr 19	\$148,969.74
Yr 20	\$158,296.70



Section 4

Capital Cost

Price Wall Mounted MCT-12

Item No.	Quantity	Description	Total Price (US\$)
1	One Each	12 lbs/day on-site sodium hypochlorite generator, with equipment (As listed under 1.A Scope of Supply)	Included
2	One Lot	Engineering & Documentation	Included
3	One Lot	Freight (see delivery schedule)	Included
		Total	\$ 48,125.00

Note: Pricing listed above is not inclusive of taxes.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: April 7, 2016	AB16-024A
Resolution authorizing the Mayor to sign a Professional Services Agreement for building department related services.	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barbara Kincaid	X
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
Cost Impact (see also Fiscal Note): \$180,000 estimated for 2016 through 2018 (2 years)	Court – Stephanie Metcalf	
Fund Source: --Community Development Permit Revenue		
Timeline: May 2016 to May 2018 (2years)		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Professional Services Agreement		
SUMMARY STATEMENT:		
<p>The City has been using the building services from the Cities of Covington and Maple Valley under an Interlocal Agreement (ILA) for several years because there had not been enough building permit activity for the City to fund its own Building Official and inspectors. Under this agreement, Covington provides the services of their Building Official, Robert Meyers and Plans Examiner, Greg Christianson. Building inspections are performed by Bruce King and Mike Bailey from Maple Valley. Due to the increasing development pressures in Covington and Maple Valley, the City's building services appear to be suffering. In many cases, permit approvals have been backlogged, potentially causing the City to miss its statutory deadline for approving permits. Also, billable hours from two venders have been difficult to reconcile resulting in additional administrative time reviewing invoices.</p> <p>Therefore, staff recommends terminating the Interlocal Agreement and entering into a Personal Services Agreement with BHC Consultants. LLC. BHC Consultants, LLC is a well-established firm located in Seattle, Wa who provides consistent building department services for local municipalities including, Sammamish, Bellevue, Kenmore, Lake Forest Park, Redmond, and Seattle. The benefits to the City under this agreement are as follows:</p> <ul style="list-style-type: none"> • One dedicated, certified inspector will be onsite 3 days a week (with regular hours) answer building related questions, conduct inspections, issue simple "over the counter permits", and respond to code complaints. • The turnaround for plan review and permit approval will be shorter. • A Building Official will be readily available as needed but the City will not be paying for billable hours at the higher rate Building Official rate as it does now for business that can be managed by the inspector. • The BHC fee schedule and billing model will make it much easier to ensure the permit fees are accurately covering expenses. • BHC has staff available to cover additional workload as permit activity increases. 		

FISCAL NOTE (Finance Department):

The 2016 Budget for Building Inspections and Plan checks expenditures for 2016 is \$88,000 and is expected to cover the costs of this contract based on the three days a week certified inspector and the current estimated Plan Checks. If the number of permits or inspections increases, the building permit revenue will also increase and will cover the costs. If this occurs both the budgets for Revenue and offsetting expenditures will need to be amended to show the increases in a year end budget amendment.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to adopt Resolution No. 16 - ? (Clerk will assign number at adoption), authorizing the Mayor to execute a professional services agreement with BHC Consultants, LLC for building services.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
March 17, 2016	Sent to Committee	
April 7, 2016		

RESOLUTION NO. 16-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH BHC CONSULTANTS, LLC FOR BUILDING DEPARTMENT RELATED SERVICES

WHEREAS, City of Black Diamond Building Code adopts the state building code whereby the City designates and authorizes a building official to enforce the provisions of the state building code with the exception of the fire code; and

WHEREAS, in accordance with the state building code and concurrent to the designation of the authority of the building official, the building official shall have the authority to hire related technical officers, plan examiners, and inspectors; and

WHEREAS, the City currently utilizes building department related services from the Cities of Covington and Maple Valley under an existing Interlocal Agreement because there is not enough building permit activity to allow the City to maintain a full-time official/inspector; and

WHEREAS, building activity has been increasing and staffing levels under the existing Agreement do not provide flexibility to meet projected building activity workloads; and

WHEREAS, the City contacted BHC Consultants, LLC, and after discussions with BHC about their services, staff determined that BHC has the capacity to meet the City's present needs; and

WHEREAS, turnaround times for plan review and permit approval under the current arrangement are not meeting the City's timelines under the existing Agreement and BHC Consultants, LLC proposes to provide faster plan review and permit approvals; and

WHEREAS, under the current arrangement with the Interlocal Agreement, there is no one dedicated to respond to citizens questions and concerns on matters related to building code; and

WHEREAS, BHC Consultants, LLC proposes to provide a certified inspector onsite 3 days a week with regular hours to answer building related questions, conduct inspections, respond to code complaints, and issue simple "over the counter" permits; and

WHEREAS, BHC will provide a readily available certified Building Official as needed to provide code administration and interpretations and will not be billing the City at the higher rate for Building Official services for work that can be performed by the certified inspector or plans examiner; and

WHEREAS, under the existing Agreement, the City received separate bills from Covington and Maple Valley for building services making it difficult to reconcile expenses which results in additional administrative time reviewing invoices; and

WHEREAS, the BHC fee schedule and billing model, as proposed, will make it easier to ensure permit fees are accurately covering expenses;

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

Section 1. The Mayor is authorized to sign a Professional Services Agreement with BHC Consultants, LLC for building code administration, plans examination, building inspection and building related code enforcement services, substantially in the form as Attachment A to replace the existing Interlocal Agreement with the Cities of Covington and Maple Valley.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS ____ DAY OF ____, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the _____ day of _____, 2016, by and between the City of Black Diamond, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF BLACK DIAMOND, WASHINGTON (hereinafter the "CITY")
24301 Roberts Drive
Black Diamond, WA 98010
Contact: Mayor Carol Benson Phone: 360-886-5700 Fax: 360-886-2592

And BHC Consultants, a Limited Liability Company, organized under the laws of the State of Washington, doing business at:

BHC CONSULTANTS (hereinafter the "CONSULTANT")
1601 Fifth Avenue, Suite 500
Seattle, WA 98010
Contact: William Hill, Director, Construction Code Compliance, Phone: 206-505-3400
Fax: 206-505-3406
e-mail: william.hill@bhccconsultants.com

for professional services in connection with building permit services to administer building code requirements, review building permit applications, conduct building inspections, and engage in building-related code enforcement activities.

TERMS AND CONDITIONS

1. Services by Consultant.

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. Consultant shall perform the services described in the scope of work in accordance with the Schedule attached to this contract as Exhibit "B." If delays beyond Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on May 1, 2016 (“Commencement Date”) and shall terminate on May 1, 2018 unless extended or terminated in writing as provided herein.

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$_____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$_____ without written authorization and will be based on billing rates and reimbursable expenses attached hereto as Exhibit “_____”.

TIME AND MATERIALS. Compensation for these services shall be on a time and material basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____”.

OTHER. Provide for fixed fee rates as identified in fee schedule attached hereto as Exhibit “B”.

5. **Payment.**

A. Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. All payments shall be delivered to: BHC Consultants, LLC, 1601 Fifth Avenue Suite 500, Seattle WA 98101. 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.

C. Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. 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 Revised Code of Washington (RCW) 51.08.195, as required by law, 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 Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination and Compliance with Laws**

A. Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. 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 approval of the City and shall be subject to the City's general right 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.

C. Consultant shall obtain a City of Black Diamond business license prior to receipt of written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility for further work for City.

7. **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.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. The Agreement may be terminated upon the default of the Consultant.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City, and Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. Consultant shall not be entitled to any reallocation of

cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. **Standard of Care.** Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant 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.

10. **Ownership of Work Product.**

A. All data materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of City, shall be forwarded to City at its request and may be used by City as it sees fit. Upon termination of this agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City.

B. 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.

11. **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 or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. 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, arising out of or in connection with the consultant's performance of 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.

13. Insurance. 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 performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. Employer's Liability insurance each accident \$1,000,000; Employer's Liability Disease each employee \$1,000,000; and Employer's Liability Disease – Policy Limit \$1,000,000.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to Consultant or by Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Carol Benson
Mayor
24301 Roberts Drive
Black Diamond, WA 98010

Phone: 360-886-5700
Fax: 360-886-2592

BHC Consultants, LLC
Attn: Craig Chambers, President
1601 Fifth Avenue, Suite 500
Seattle, WA 9101

Phone: 206-505-3400
Fax: 206-505-3406

16. Resolution of Disputes and Governing Law.

A. 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 Mayor, who shall determine the term or provision's true intent or meaning. The Mayor 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.

B. 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's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, then such disputes shall be submitted to and considered in nonbinding mediation before either party may commence litigation. The jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained 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 in full force and effect.

B. Modification. No waiver, alteration, 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.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or

unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions 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, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated 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 the day and year set forth above.

CITY OF BLACK DIAMOND,
WASHINGTON

BHC CONSULTANTS, LLC

By: _____
Carol Benson
Mayor

By: _____

Name: _____

Date: _____

Title: _____

Date: _____

Attest:

By: _____
Brenda Martinez
City Clerk

APPROVED AS TO FORM:

By: _____
Carol A. Morris
City Attorney

EXHIBIT - A

SCOPE OF SERVICES

1. PLAN REVIEW

BHC will review plans submitted with building permit applications for structural and nonstructural code compliance in accordance with the currently adopted construction codes as adopted and amended by the state of Washington and City of Black Diamond.

- A. The BHC will not design for the applicant, make any structural changes on the plans, or make any changes that directly contradict other information on the plans. Significant changes must be made by or under the direction of the applicant or design professional.
- B. Reviews shall be done by BHC onsite staff or at the BHC office.
- C. If corrections or additions are required, the reviewer will write a review letter addressed to the applicant. The correction letter will indicate to the applicant that they are required to submit the revisions/additions to the City per the submittal requirements for the permit type under review.
- D. BHC will indicate that the drawings have been reviewed and found to be in substantial compliance with applicable construction codes and ordinances. The reviewer's name and date of compliance will be affixed to each sheet in up to two sets of drawings including the cover sheet.
- E. Complete reviews will include structural, nonstructural, accessibility, energy, and ventilation requirements. Partial reviews will be indicated as either structural or nonstructural or as mutually agreed upon.

2. PROCESS

- A. BHC staff will determine which plans are to be reviewed on site (at the City) or sent to the BHC office. Basic "over the counter" type permits will be reviewed onsite (at the City) by the BHC inspector. New Single family and commercial plans will mostly be reviewed by BHC staff at the BHC office.
- B. The City will intake, track, and process the permit applications and all revisions per current building and permit administration procedures.
- C. BHC will be responsible for the transportation and cost of returning permit review documents back to the City. The City will be responsible for the transportation and cost of delivering permit review documents to BHC.
- D. The Consultant will complete the initial review and will have either approved the application and notified the City of approval or contacted the applicant and the City with corrections within the time frames listed below:

Project Type	Initial Review	Re-Review
Single-Family	10 days (2 weeks)	5 days (1 week)
Multi-Family	15 days (3 weeks)	10 days (2 weeks)
Commercial	20 days (4 weeks)	15 days (3 weeks)

Turn-around for all other types of permit applications is to be negotiated.

- E. The Consultant will review any revisions or additional information and will either indicate compliance with the code(s) against which it was checked and notify the City of compliance, or if the drawings are still not complete, contact the applicant and the City with additional revision requests within the time frames specified above.
- F. The review time may be negotiated based on the number and complexity of projects to be reviewed. The Consultant will not be held responsible for delays beyond the Consultant's control. During heavy workloads or schedule delays, the Consultant shall notify the City of revisions to estimated target dates. The Consultant acknowledges that there are deadlines for processing permits, and that lawsuits for damages may be brought against the City for failure to process permit applications according to the established deadlines. Therefore, Consultant understands that its "heavy workloads or schedule delays" are insufficient excuses for meeting statutory and code deadlines for issuance of final decisions on permits.

2. BUILDING OFFICIAL SERVICES

William Hill, CBO, ACO from BHC Consultants, LLC will provide Building Official services for code interpretation and administrative needs such as ordinance review and update, staffing needs and department budget development and review.

3. BUILDING INSPECTION SERVICES

BHC will provide a certified building inspector at a minimum of three (3) days per week or as otherwise required by the city services:

- A. The BHC inspector will perform the following inspection tasks:
 - a. non-structural fire and life safety inspections
 - b. structural inspections
 - c. energy code inspections
 - d. barrier free inspections
 - e. mechanical & plumbing inspections
 - f. code compliance
- B. The inspector will provide building inspections in accordance with the currently adopted International Codes, Washington State Building Code (WAC 51-50 and 51-51), and Energy Code (WAC 51-11), and the applicable City Building Codes. except that the inspector will confer with the Building Official on any portion of the review that specifically requires an approval of the Building Official under the applicable Code(s), or that involves an unusual interpretation.
- C. Inspections will be done in accordance with codes, ordinances and regulations in effect and will be performed in a courteous and professional manner. Up-to-date records of inspection status will be maintained on the job card in the field and on the office copy of the permit.

4. ADDITIONAL SERVICES PROVIDED.

A. If performed by BHC, Civil/Site plan reviews will be charged at the hourly rates shown in Labor Rate Schedule, depending on the type of review, as identified in Exhibit B and attached to this Personal Services Agreement.

B. Pre permit plan review meetings to review code requirements and city department permit coordination will be charged at the hourly rates shown in Labor Rate Schedule, Building Official services, as identified in Exhibit B and attached to this Personal Services Agreement

C. Review of deferred submittals will be charged at the hourly rates shown in Labor Rate Schedule, depending on the type of review, as identified in Exhibit B and attached to this Personal Services Agreement.

D. Revisions to plans that require additional plan review will be charged at the hourly rates shown in Labor Rate Schedule, depending on the type of review, as identified in Exhibit B and attached to this Personal Services Agreement

E. Attendance at meetings when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule, Building Official services, as as identified in Exhibit B and attached to the is Personal Services Agreement.

F. Fire Code, Fire Sprinkler, Fire Alarm plan reviews when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule, Plan Reviewer- nonstructural, as identified in Exhibit B and attached to the is Personal Services Agreement.

ATTACHMENT - B
SCHEDULE OF RATES, CHARGES AND FEES

<u>Classification</u>	<u>Hourly Rate</u>
Building Inspector	\$70
Building Official services	\$140
Plan Reviewer - nonstructural	\$120*
Structural P.E.	\$150
Civil/site plan review (P.E.)	\$130
Administration Assistance	\$50

PLAN REVIEW FEES:

(For reviews sent to BHC due to complexity or project size. These fees are not intended for reviews performed at the City of Black Diamond by onsite inspector). The 75% of city collected Plan review fees include initial review and one corrections. *Additional corrections will be charged at the hourly rate.

Residential:

Single Family Dwellings will be charged at 75% of City's collected Plan Review fee (complete review including structural, non-structural, mechanical, plumbing, State Energy, and applicable items in the City's Municipal Code .

At the request of the City and with concurrence by Consultant, plan review fees may be determined to be charged at the hourly rate as identified in labor rate schedule as opposed to the following "fixed fee" rates.

Non-Residential:

A. Complete Plan Review

- IBC Non-structural Fire & Life Safety + Structural, disabled accessibility and/or State Energy Code, *IMC and/or UPC.*

75% of the City collected Plan Review fee (\$250 minimum).

B. Partial Review:

Will consist of one of the following:

- IBC Non-structural Fire & Life Safety including mechanical/plumbing when issued as part of a combination building permit, and State Energy and Accessibility review
-OR-
- IBC Structural ONLY

50% of the plan review fee calculated (\$250 minimum).

C. Mechanical/Plumbing (issued as separate permit)

When permit for such work is issued separately from a building combination permit and permit fee is based on valuation of such work separate from building permit, fee will be assessed at the partial review percentage noted above. If permit fee is based on unit fee per the IMC or UPC, fee will be charged the hourly rate.

- D. Upon City's request, Civil/Site Plan review will be charged at the hourly civil plan review rates. These fees include the initial plan review plus one (1) recheck. When substantial revisions occur to previously reviewed and /or approved plans, additional fees shall be charged at the hourly rates shown in Labor Rate Schedule.

1. ADDITIONAL:

- A. All other review services and reviews in excess of two (the initial review plus one re-check) shall be paid on a time-and-expense basis using the hourly rate for Plan Reviewer either non-structural or structural depending on the type of review.
- B. In-house (at City's location) plan review and other services will be provided as directed by the City and agreed upon by the Consultant on a time-and-expense basis using an hourly rate for either Building Inspector or Plan Reviewer (nonstructural or structural) depending on the type of review or services needed.
- C. Valuation figures used to determine the plan review fees will be calculated based on the City's adopted Fee Schedule or Resolution.
- D. Each billing statement will include the permit application number and owner or project name of the plans reviewed with the fee.
- E. Billing statements will be issued for reviews that receive a complete initial review in the preceding month or other acceptable time period. A complete initial review shall constitute an earned fee for both City and Consultant.
- F. The City shall have the right to withhold payment to the Consultant for any work not completed in a satisfactory manner until such time that the consultant modifies such work to the satisfaction of the City.
- G. The cost of delivering plans for review to BHC will be incurred by the CITY. The cost of delivering reviewed plans back to city will be incurred by BHC.
- H. Mileage travel rates shown are portal to portal from inspector's residence or the Seattle office, whichever is less for on-call services. One hour of travel time will be charged for each day of travel to City's location.
- I. All mileage included by BHC inspector will be reimbursed at the most current IRS rate, currently .575 cents per mile.
- J. Consultant staff's normal work days are Monday through Friday (8am~5pm). Office work on Saturdays, Sundays or CITY Holidays will be performed only at specific request of the City. Billing for work performed outside normal work hours are on Saturdays, Sundays, or CITY Holidays shall be at 150% of the rates shown above.

- K. This Schedule of Hourly Rates is effective as of January 1, 2015. Rates are subject to annual review.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute the Collective Bargaining Agreement between the City of Black Diamond and the Teamsters Union Local No. 117 Public Works Unit	Agenda Date: April 7, 2016	
	AB16-025	
	Mayor Carol Benson	
	City Administrator	
	City Labor Attorney – Peter Altman	X
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barb Kincaid	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Public Works – Seth Boettcher		
Court – Stephanie Metcalf		
Cost Impact (see also Fiscal Note): \$		
Fund Source: --		
Timeline:		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Collective Bargaining Agreement (Exhibit A); On-Call Policy (Exhibit B)		
SUMMARY STATEMENT: The City’s negotiating team consisting of Peter Altman, Summit Law Group, Brenda L. Martinez City Clerk/HR Manager and Police Chief Jamey Kiblinger were able to reach a tentative agreement with the Association for a Collective Bargaining Agreement (“CBA”) through December 31, 2017. The Public Works Unit has approved the CBA and the City’s negotiating team is recommending ratification by the City Council. In addition, the Public Works Unit has approved the On-Call Policy and the City’s negotiating team is recommending approval by the City Council. FISCAL NOTE (Finance Department): The new Collective Bargaining Agreement was negotiated with minimal costs to the City of Black Diamond over the term of the agreement.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16- ? (Clerk to assign number at adoption) authorizing the Mayor to execute a Collective Bargaining Agreement between the City of Black Diamond and the Teamsters Local Union No. 117 Public Works Unit.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
April 7, 2016		

RESOLUTION NO. 16-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF BLACK DIAMOND AND TEAMSTERS LOCAL UNION NO. 117 PUBLIC WORKS UNIT AND ADOPTING THE ON-CALL POLICY FOR THIS UNIT

WHEREAS, the Teamsters Local Union No.117 is the authorized bargaining representative for the Black Diamond Public Works Unit; and

WHEREAS, the Public Works Unit was formed in 2014; and

WHEREAS, the City negotiating team has reached tentative agreement with the Union for a Collective Bargaining Agreement ("CBA") through December 31, 2017; and

WHEREAS, the City negotiating team has recommended that the Council ratify the CBA; and

WHEREAS, the Council has reviewed the CBA and finds it is in the best interests of the City and its employees to authorize the Mayor to execute the CBA; and

WHEREAS, the Council has reviewed the On-Call Policy and finds it is in the best interests of the City and its employees to approve it;

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

Section 1. The City Council hereby authorizes the Mayor to execute the CBA as attached hereto as Exhibit A.

Section 2. The City Council hereby adopts the On-Call Policy as attached hereto as Exhibit B, incorporated by reference in the CBA.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS ____ DAY OF ____
_____, 2016.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

AGREEMENT

By and Between

THE CITY OF BLACK DIAMOND

and

**TEAMSTERS LOCAL UNION NO. 117
(PUBLIC WORKS UNIT)**

April ____, 2016 – December 31, 2017

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**AGREEMENT BETWEEN
CITY OF BLACK DIAMOND
and
TEAMSTERS LOCAL UNION NO. 117
(PUBLIC WORKS UNIT)**

PREAMBLE

This Agreement is entered into between the City of Black Diamond (the “Employer” or the “City”), a municipal corporation of the State of Washington, and Teamsters Local Union No. 117 (the “Union”), for the purpose of setting forth wages, hours, and working conditions which shall be in effect during the terms of this Agreement for employees in the bargaining unit, as determined by PERC Case 26514-E-14-3873, Decision 12133 (PECB, 2014), and defined in this Agreement.

It is the purpose of this Agreement to achieve and maintain harmonious relations, based upon a mutual respect and using a collaborative approach with the objective of fostering effective cooperation between the Employer and the Union, to provide for contractual conditions of work, to establish agreed standards of wages and hours, and to achieve peaceful and rapid resolution of any differences which may arise in accord with the terms of this Agreement.

ARTICLE 1 – DEFINITIONS

The following terms and phrases used in this Agreement are defined as follows:

“The Employer” or “the City”: The City of Black Diamond, Washington.

“The Union”: Teamster Local Union No. 117 (Public Works Unit).

Bargaining Unit: All regular full-time, regular part-time, seasonal, and initial/promotional probationary employees of the City of Black Diamond Public Works Unit, excluding certain supervisory and confidential employees.

Employees: Regular full-time, regular part-time, seasonal, and initial/promotional probationary employees in the bargaining unit covered by this Agreement, excluding certain supervisors and confidential employees.

Seasonal Employees: Seasonal employees are those employees hired for a limited term of employment, not to exceed six (6) continuous months on an annual basis. The Employer will hire seasonal employees only as needed in response to a temporarily expanded seasonal workload or in response to an emergency. Seasonal employees will not be used to displace

bargaining unit positions and, absent a mutual agreement, will not reduce the number of hours worked by bargaining unit members. Seasonal employees are members of the bargaining unit and subject to initiation/enrollment with Teamsters Local No. 117, however, seasonal employees are not eligible for benefits, do not accrue paid leave or seniority, serve “at will” without recourse to the grievance procedure, and are not entitled to any other benefits bestowed by this Agreement. Seasonal employee may transition to regular full-time or regular part-time status, subject to an initial probationary period of employment as described below.

Initial Probationary Employees: New employees hired by the Employer, serving an initial probationary period of employment prior to achieving regular full-time or regular part-time status.

Initial Probationary Period of Employment: The initial six (6) months of work—including holidays but excluding other leave—each initial employee of the Employer must complete in order to achieve regular full-time or regular part-time employment status. The initial probationary period of employment provides an opportunity for the Employer to evaluate the performance of new employees, and for new employees to evaluate working for the Employer. During the initial probationary period of employment, initial probationary employees serve “at will” and may be terminated with or without cause, and without recourse to the grievance procedure stated in this Agreement. The Employer retains the right to extend the length of the initial probationary period of employment on a case-by-case basis.

Promotional Probationary Employees: Existing employees serving a promotional probationary period of employment.

Promotional Probationary Period of Employment: A probationary period of work—including holidays but excluding other leave—each existing employee of the Employer must complete upon promotion or transfer to a new classification. For employees promoted within their existing department (“street to street” or “office to office” promotions), the promotional probationary period shall be thirty (30) days. For employees receiving a promotion or transfer to a new department (“street to office” promotions or transfers), the promotional probationary period shall be six (6) months. During the promotional probationary period of employment, if the Employer determines that an employee is not satisfactorily performing in a new classification, the Employer shall return to employee to his/her previously-held position. The Employer retains the right to extend the length of the promotional probationary period of employment on a case-by-case basis.

ARTICLE 2 – RECOGNITION

The Employer recognizes the Union as the sole and exclusive bargaining representative for all employees in the bargaining unit, including all regular full-time, regular part-time, seasonal, and initial/promotional probationary employees in the Public Works Division, excluding all other employees.

ARTICLE 3 – UNION SECURITY, MEMBERSHIP, AND DUES

3.1 - Union Membership

It shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the effective date of this Agreement shall remain members in good standing and those who are not members on the effective date of this Agreement shall, on the thirtieth (30th) day following the effective date of this Agreement, become and remain members in good standing with the Union. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after its effective date shall, on the thirtieth (30th) day following the beginning of such employment become and remain members in good standing in the Union. As used in this Article, “good standing” means that the employee is current in the payment of all required monthly dues and initiation fees.

3.2 - Dues or Fees / Payroll Deduction

The Employer shall deduct Union dues or fees for all employees who individually and voluntarily authorize in writing such payroll deduction for each month’s paycheck(s). The Union shall designate the amount to be deducted. Such amount shall be remitted to the Union within a reasonable time, without unnecessary delay by the Employer. Authorization by employees shall be on a form mutually approved by the Employer and Union and may be revoked by the employee upon written request to the Employer and the Union.

3.3 - Equivalent Dues/Fees Payment

In accordance with RCW 41.56.122, objections to joining the Union based on *bona fide* religious tenets or teachings of a church or religious body, or other legally recognized objections determined by the Public Employment Relations Commission (PERC) or a Washington Court, shall be observed. Any such employees shall pay an amount of money equivalent to regular Union dues and initiation fees to a non-religious charity mutually agreed upon by the employee and the Union. The employee shall furnish written proof to the Union that such payment has been made. If the employee and the Union do not reach agreement on such matter, PERC shall designate the charitable organization.

3.4 – Failure to Comply

In the event an employee of the Union, who joins the Union and fails to maintain his/her membership in the Union by regular payment of dues and fees, the Union will notify the Employer, in writing, of such employee’s nonpayment. The Employer agrees to advise the employee that his/her employment status with the Employer is in jeopardy, and that failure to meet his/her membership obligation of payment of Union dues will result in termination of employment within five (5) days following the next regular payroll payment date.

3.5 - Notification

The Employer shall annually, or at the specific request of the Union, provide the Union with a current list of all employees in the bargaining unit. The list shall include the name of each employee, date of hire, wage rate, job classification, and employment status.

The Employer will notify the Union of all newly hired employees hired into job classifications covered by this Agreement. The notification shall include the name of the employee, date of hire, wage rate, job classification, and employment status. The Employer will also notify the Union of any employee leaving the bargaining unit because of termination, layoff, promotion, demotion, transfer, or resignation. The notification shall include the name of the employee, date of termination, and job classification.

3.6 – PAC Contributions to D.R.I.V.E.

The Employer agrees to deduct from the paychecks of employees covered by this Agreement voluntary contributions to D.R.I.V.E. (Democrat, Republication, Independent Voter Education). The Union will notify the Employer of the amounts designated by each contributing employee, to be deducted from each paycheck. The Employer shall send to D.R.I.V.E. headquarters, on a monthly basis, a single check for the total amount deducted by employees, along with the name of each employee on whose behalf a deduction is made, the employee's Social Security number, and the amount deducted from each paycheck. Contributions made by employees under this Section are entirely voluntary. By agreeing to this provision, the Employer does not endorse or condemn any particular political views associated with D.R.I.V.E.

The International Brotherhood of Teamsters, Teamster Local Union No. 117, shall reimburse the Employer annually for the Employer's actual costs incurred in administering the payroll deduction plan. Reimbursement shall be paid by the Teamsters within thirty (30) days of submission by the Employer. In the event the Teamsters no longer serve as the bargaining representative of the Public Works Unit, this section of the Article shall automatically terminate.

3.7 - Hold Harmless

The Union agrees to indemnify and hold the Employer harmless for any and all liabilities that arise or by reason of actions taken by the Employer pursuant to this Article.

ARTICLE 4 – NON-DISCRIMINATION

4.1 – Non-Discrimination Based on Union Membership or Union Activity

In accordance with RCW 41.56, the Employer and Union agree that there shall be no discrimination against employees or Union officers because of membership in the Union or lawful union activity.

4.2 – Equal Opportunity, Anti-Harassment, and Non-Discrimination

Neither the Employer nor the Union shall discriminate against any employee or job applicant in violation of local, state, or federal employment laws and regulations. The Employer and the Union acknowledge their commitment and obligation to abide by all equal employment opportunity and non-discrimination laws. There shall be no discrimination, harassment, or retaliation based on race, color, religion, sex, sexual orientation, marital status, national origin, age, or the real or perceived presence of any sensory, mental, or physical disability that does not prevent the proper performance of the job, unless based upon a *bona fide* occupational qualification.

ARTICLE 5 – UNION ACTIVITY

5.1 – Conduct of Union Business

Union business, such as handling grievances or other legitimate routine matters authorized by this Agreement, may be conducted on the Employer's premises provided that such business does not interfere with the Employer's operations or business. The Employer shall not unreasonably deny entry. Scheduled Union meetings may be held in the Employer's facilities subject to the foregoing restrictions.

5.2 – Paid Release Time for Bargaining

One non-exempt employee may be on regular paid status for any bargaining session, or portion thereof, occurring during the employee's scheduled hours of work. If the employee is not on duty during bargaining, then the employee will not be paid by the Employer.

5.3 – Bulletin Boards

The Employer shall provide space in a non-public area for a bulletin board which may be used by the Union for Union-related business. Nothing posted on the bulletin board shall be derogatory toward the Employer, its elected officials, or other personnel. If the Employer determines that a posting is deemed to be derogatory, the Employer shall remove the posting and return it to a Union representative.

ARTICLE 6 – MANAGEMENT RIGHTS

6.1 – Purpose

The Union recognizes the Employer has a legitimate need to operate and manage its affairs in all respects in accordance with its lawful mandate, and the powers and authority which the Employer has not specifically abridged, delegated, or modified by this Agreement are retained by the Employer.

6.2 – Specific Rights Enumerated

In accordance with Washington law and RCW 41.56, the Employer and the Union agree to a specific list of management rights. Most notably, the direction of the workforce is vested exclusively with the Employer. This shall include, but is not necessarily limited to, the right to:

1. Direct and manage employees;
2. Hire, promote, transfer, assign, re-assign, and retain employees;
3. Suspend, demote, discharge, or take other disciplinary action against employees in accordance with the discipline and separation provisions of this Agreement;
4. Relieve employees from duty because of lack of work, budget constraints, or other legitimate reasons;
5. Maintain the efficiency of the Employer's operations;
6. Determine the methods, means, and personnel by which the Employer operates and conducts its business;
7. Develop, amend, and enforce reasonable written policies, procedures, rules, or regulations governing the workplace, including those described in the Employer's personnel policy manual, provided that such policies, procedures, rules, and regulations do not conflict with the provisions of this Agreement, and provided the Union may request to bargain the reasonableness of any amendments to policies, procedures, rules, and regulations impacting the terms and conditions of this Agreement; and
8. Take any reasonable actions necessary in conditions of emergency, regardless of prior commitments, to carry out the duties and mission of the Employer.

Provided, however, that items (1)-(8) above shall not conflict with any terms and conditions stated in this Agreement or other supplemental agreements with the Union.

6.3 – Notice to the Union of the Exercise of Management Rights

The Employer shall provide the Union with reasonable notice of the exercise of any management right that, in the Employer's opinion, may adversely affect wages, hours, or working conditions. The Employer agrees to engage in any impact bargaining over the effects of the exercise of any management right, including the reasonableness of amendments or revisions to its personnel policies impacting the terms and conditions of this Agreement, as required by Washington law and RCW 41.56.

6.4 – Mandatory Collective Bargaining Required

Except as provided in this Agreement, the Employer may neither alter, amend, nor modify any matters subject to mandatory collective bargaining under RCW 41.56 (*i.e.* wages, hours, and working conditions) during the term of this Agreement without first bargaining with the Union.

ARTICLE 7 – HOURS OF WORK

7.1 – FLSA Work Week

For all non-exempt employees, the designated work week shall consist of forty (40) hours within a consecutive seven (7) day period. The work week shall begin at 12:00 a.m. Monday and end at 11:59 p.m. on Sunday, unless otherwise specified.

7.2 – Work Schedule for Non-Exempt Employees

The work week for non-exempt regular full-time employees shall normally be comprised of eight (8) consecutive hours of work, totaling forty (40) hours per work week (a “5/8” schedule). However, the Employer may assign employees to a work schedule different from the 5/8 schedule in order to meet business and customer service needs. In the event of a deviation from the 5/8 schedule, the Employer will provide affected employees with ten (10) working days’ notice, except by mutual agreement. Absent mutual agreement, employees will be provided at least two (2) consecutive days off per work week and will not be required to work split shifts. Nothing in this Article prevents the Employer from changing work schedules in response to emergency situations.

- a. **Meal Period** – Employees are provided with a thirty (30) minute unpaid meal period per regular work shift, to be taken as close to the middle half of each regular work shift as reasonably possible, in no event taken no less than two (2) hours and no more than five (5) hours from the beginning of a work shift. If an employee is required by the Employer to remain on duty during a meal period, the employee shall be paid for the meal period.
- b. **Rest Periods** – Employees are provided with two (2) fifteen (15) minute paid rest breaks per regular working shift, to be taken approximately midway in each half of the regular work shift. An employee required to work beyond ten (10) consecutive hours in any one day shall be provided another fifteen (15) minute rest period after the ten (10) hour threshold. Rest periods shall be scheduled to avoid interfering with the Employer’s operations and service, provided employees are not required to work more than three (3) hours without a rest break.

ARTICLE 8 – SENIORITY

8.1 – Definition of Seniority

- c. **Seniority within the Employer**—the length of continuous employment of a regular full-time employee, regular part-time employee, or promotional probationary employee with the Employer. Seniority within the Employer shall begin on the date of hire.
- d. **Seniority within a Classification**—the length of continuous employment of a regular full-time employee, regular part-time employee, or promotional probationary employee

within a particular job classification. Seniority within a classification shall begin on the date of transfer to a new classification.

8.2 – Employee Classifications

- a. **Regular Full-Time, Regular Part-Time, and Promotional Probationary Employees –** Seniority applies to regular full-time, regular part-time, and promotional probationary employees. Regular part-time employees earn seniority based on a pro-rated percentage of regular full-time employees (for example, a 0.5 regular part-time employee working 20 hours per week will earn 0.5 service credits per month).
- b. **Initial Probationary Employees –** Initial probationary employees shall not have seniority during the initial probationary period of employment. Upon completion of the initial probationary period of employment, an employee's most recent date of hire with the Employer shall be the employee's seniority date.

8.3 – Breaks in Seniority

Seniority shall be broken by resignation, discharge supported by just cause, retirement, layoff of more than twelve (12) months, or failure to return in accordance with the terms of a leave of absence or when recalled from layoff. A break in seniority results in a loss of seniority.

ARTICLE 9 – OVERTIME AND CALL-BACK

9.1 Overtime Eligibility and Requirements

Overtime is provided only to employees who are not exempt from coverage under state and federal wage and hour laws. As a condition of employment, overtime may be required when determined by the Employer. Overtime must be authorized in writing by the Employer before any overtime hours are worked.

9.2 – Overtime Hours

Overtime is defined as hours worked in excess of forty (40) hours in a work week. Hours worked in a work week exclude periods of paid leave, including holidays, vacation, sick leave, and all other forms of paid leave.

9.3 – Overtime Compensation

Overtime is paid at a rate of one and one-half (1.5) times an employee's regular rate of pay.

9.4 – Call-Back

Employees may be called back to work outside of regular working hours. Only designated employees will be subject to mandatory call-back, in accordance with the stand-by provisions of Article 9.5 below and the Employer's stand-by/on-call policy.

9.5 – Stand-By “On-Call”

Employees placed on stand-by receive 0.75 hours of pay at their regular rate for each eight (8) hour stand-by shift. All other terms are stated in the Employer’s stand-by/on-call policy. The Employer agrees to notify the Union of any proposed changes to the stand-by policy impacting wages, hours, or working conditions. Solely for purposes of this section, the parties agree that employees of the Public Works Division, including supervisors, who are not members of the bargaining unit may be assigned to stand-by shifts and any associated on-call/call-back work.

9.6 – Compensatory Time

With the approval and at the discretion of the Employer, non-exempt employees may request to accrue compensatory time in lieu of overtime pay. In such cases, compensatory time shall accrue at the rate of one and one-half (1.5) hours for each overtime hour worked. Compensatory time is intended as a benefit to employees. Under no circumstances shall an employee be required to accept compensatory time instead of overtime pay.

- a. **Scheduling Compensatory Time Off** - Employees must request to use compensatory time in advance with the Employer. Employees who request compensatory time off shall be permitted to use such time with a reasonable period after making a request, provided the use of compensatory time off does not unduly impact the Employer’s operations. The Employer reserves the right to control the scheduling of compensatory time off to ensure operational and departmental needs are met.
- b. **Maximum Accrual** - The maximum accrual of compensatory time is forty (40) hours. Employees who have reached the maximum accrual will receive pay for additional hours worked at applicable overtime or straight time rates.
- c. **Cash-Out** – Compensatory time not used by November 30, or scheduled by November 30 for use before the end of the calendar year, will be cashed out in the first regular payday following November 30. Compensatory time will also be cashed out for employees who separate, voluntarily or involuntarily, from the Employer. All cash outs will be paid at employees’ straight time rates.

ARTICLE 10 – HOLIDAYS

10.1 – Recognized Holidays

The following holidays are recognized by the Employer for all regular full-time, regular part-time, and initial/promotional probationary employees of the bargaining unit:

New Year’s Day	January 1
Dr. Martin Luther King Jr. Day	3 rd Monday of January
President’s Day	3 rd Monday of February
Memorial Day	4 th Monday of May

Independence Day	July 4
Labor Day	1 st Monday of September
Veteran's Day	November 11
Thanksgiving Day	4 th Thursday of November
Day After Thanksgiving	4 th Friday of November
Christmas Day	December 25
Floating Holiday (1)	Discretionary

Holidays begin at 12:01 a.m. and end at 12:00 p.m. on the designated date.

10.2 – Holidays During Paid Leave

Holidays occurring during employees' absence on paid vacation or paid sick leave shall not be considered part of the vacation or sick leave expended.

10.3 – Holiday Pay for Non-Exempt Employees

Non-exempt regular full-time employees, including initial/promotional probationary employees, not required to work on a holiday are paid their regular rate of pay for the holiday. Non-exempt regular full-time employees, including initial/promotional probationary employees, required to work on a holiday may choose one of two options:

1. The employee may take the next convenient regular work day off, or if less than a full day was actually worked on a holiday, the applicable number of holiday hours worked, if within the same work week. The determination of "convenient" shall be mutually agreed upon by the Employer and affected employee.
2. The employee may be paid at the rate of two (2) times their regular rate of pay for those hours worked falling on a holiday.

Non-exempt regular part-time employees, including initial/promotional probationary employees, will receive a pro-rated portion of holiday pay based on works worked by regular full-time employees. Non-exempt regular part-time employees, including initial/promotional probationary employees, are only eligible to receive holiday pay for holidays falling on days the employees were regularly scheduled to work.

10.4 – Holidays on Saturday and Sunday

Any holiday falling on a Saturday will be celebrated on the preceding Friday. Any holiday falling on a Sunday will be celebrated on the following Monday.

10.5 – Floating Holiday

Regular full-time, regular part-time, and promotional probationary employees who have been employed by the Employer for at least one (1) year may select one (1) floating holiday each calendar year, subject to approval of the Employer. Dates requested by Employees will be approved based on the following criteria:

1. An employee gives at least seven (7) days advance notice to the Employer, unless mutually agreed otherwise.
2. The particular day selected by an employee does not prevent the Employer from providing continued public service or otherwise unduly impact Employer operations.
3. The floating holidays must be taken each calendar year. Floating holidays do not rollover from year to year. At the discretion of the Employer, when an employee has reasonably made requests to use a floating holiday, and those requests have been denied, the floating holiday may be carried over to the earliest convenient date in the next calendar year. The determination of "convenient" shall be mutually agreed upon by the Employer and the affected employee.
4. Regular part-time employees, including promotional probationary employees who work on a part-time basis, will receive a pro-rated portion of floating holiday hours based on works worked by regular full-time employees (for example, a regular 0.5 part-time employee working 20 hours per week earns one-half (0.5) floating holiday per calendar year).

ARTICLE 11 – VACATION LEAVE

11.1 – Vacation Accrual

Regular full-time employees of the bargaining unit, including initial/promotional probationary employees, earn vacation leave as follows:

Year of Employment	Vacation Hours Earned Per Year
0-5 years	12 vacation days per year (8 hours per month) (1 day per month)
6-9 years	15 vacation days per year (10 hours per month) (1.25 days per month)
10-15 years	18 vacation days per year (12 hours per month) (1.5 days per month)
16-19 years	21 vacation days per year (14 hours per month) (1.75 days per month)
20+ years	24 vacation days per year (16 hours per month) (2 days per month)

Regular part-time employees of the bargaining unit, including initial/promotional probationary employees, earn a pro-rated portion of vacation leave based on hours worked by regular full-time employees (for example, a regular 0.5 part-time employee working 20 hours per week, with 0-5 years of seniority, shall earn six (6) vacation days per year).

Vacation time is accrued from the date of hire, but cannot be used by initial probationary employees until the successful completion of the seventh (7th) month of the initial probationary period. If an initial probationary employee separates employment from the Employer (for any reason) prior to completion of the initial probationary period of employment, the cash out of vacation leave shall be granted if the employee separates in good standing (as determined by the Employer).

Vacation leave may not be used in the month it is earned.

11.2 – Vacation Carry-Over

Employees may only carry-over accrued vacation leave from calendar year to calendar year in the amounts set forth below. Once an employee reaches the applicable threshold, the employee shall not accrue any additional vacation leave unless approved by the Employer.

0-5 years	144 hours maximum
6-9 years	180 hours maximum
10-15 years	216 hours maximum
16-19 years	252 hours maximum
20+ years	288 hours maximum

The allowed carry-over of vacation leave for eligible regular part-time employees is based on a pro-rated portion based on the hours worked by regular full-time employees (for example, a regular 0.5 part-time employee working 20 hours per week, with 0-5 years of seniority, shall be permitted to carry over a maximum of 72 hours per calendar year).

11.3 – Vacation Requests

The Employer retains the right to approve and deny vacation requests. Vacation days may not be taken without prior approval from the Employer. Employees are responsible for planning their annual vacation leave and submitting vacation requests to the Employer well in advance of the leave requested so that disruption to the Employer's operations is minimized. Vacation requests shall be submitted in writing to an employee's immediate supervisor. If an immediate supervisor is unavailable, the request shall be submitted to the Public Works Director. Vacation requests shall normally be approved or denied within five (5) working days of their submission, although employees may request expedited processing if warranted by the circumstances. In the event of a bona fide staffing emergency, the Employer retains the right to cancel scheduled vacations. Vacation may be taken in increments of one-half (0.5) hour.

ARTICLE 12 – SICK LEAVE

12.1 – Sick Leave Accrual

Regular full-time employees of the bargaining unit, including initial/promotional probationary employees, earn paid sick leave at the rate of eight (8) hours per month. Paid sick leave is accrued from the date of hire. Absent exigent circumstances, approved by the Employer in advance, initial probationary employees may not use accrued paid sick leave until the successful completion of the seventh (7th) month of the initial probationary period.

Regular part-time employees of the bargaining unit, including initial/promotional probationary employees, earn a pro-rated portion of paid sick leave based on hours worked by regular full-time employees (for example, a regular 0.5 part-time employee working twenty (20) hours weekly earns four (4) hours of paid sick leave per month).

Sick leave that is accrued, but unused, in a calendar year shall be accumulated for subsequent calendar years, up to a maximum accrual of one thousand and forty hours (1,040). Employees granted paid sick leave continue to accrue paid sick leave while on paid sick leave.

12.2 – Permitted Use of Sick Leave

Paid sick leave is a conditional benefit based on qualifying medical conditions or circumstances. Employees may use paid sick leave for the following situations:

1. The employee's own health condition (illness, injury, physical or mental disability, or any period of temporary disability resulting from pregnancy or childbirth).
2. The employee's forced quarantine in accordance with community health requirements.
3. The employee's medical or dental appointments, or those of the employee's immediate family, provided the employee makes a reasonable effort to schedule the appointments at times minimizing a disruption of the Employer.
4. As an extension of bereavement leave, in accordance with the terms of this Agreement governing bereavement leave.
5. Illness of a member of the employee's immediate family which requires the employee to provide care for the immediate family member.
6. The lawful use of a prescription drug which impairs the employee's job performance or safety.
7. Attendance at appointments as part of any Employee Assistance Program (EAP) offered by the Employer.
8. Any other situation where sick leave is required by applicable law or legal authority.

For purposes of this section, “immediate family” includes spouse, domestic partner, children, stepchildren, foster children, siblings, grandparents, parents of the employee or the employee’s spouse, grandchildren, and any other familial inhabitant of the employee’s household.

12.3 – Sick Leave Procedure

1. Sick leave may not be taken without prior approval from the Employer. To request sick leave, an employee shall inform the Employer as soon as possible and indicate the reason for the sick leave.
2. Sick leave may not be used during the month in which it is earned.
3. For absences in excessive of three (3) consecutive sick days, or when the Employer has reason to believe sick leave is being improperly taken, the Employer may require the employee to obtain a doctor’s statement verifying the necessity for use of sick leave. The Employer retains the right to request a second opinion from an independent doctor, specified by the Employer, and at the Employer’s expense.
4. The Employer may, at its discretion, require that an employee be evaluated by an independent doctor, specified by the Employer, and at the Employer’s expense, to determine whether the employee is able to perform the essential functions of their job, to determine any functional limitations the employee’s condition may impose on his/her job duties, and to assist in evaluating the employee’s return to work options and any reasonable accommodation.
5. Prior to returning to work, the Employer may require a written release from an employee’s doctor certifying the employee’s fitness to return to duty.
6. Employees who fail to provide proper notice, obtain a doctor’s statement when requested, or who otherwise violate this section may be denied paid sick leave and/or may be subject to disciplinary action.

12.4 – Sick Leave Donation

Employees are permitted to donate a portion of their accumulated paid sick leave to other employees in accordance with the terms and conditions stated in the Employer’s personnel policy manual.

12.5 – Sick Leave Cash-Out

Upon separation of employment in good standing (as determined by the Employer), regular full-time, regular part-time, and promotional probationary employees may receive compensation for accrued, but unused, paid sick leave based on the following formula:

End of probationary period of employment through Year 1	0% cash-out
Year 1 through Year 5	10% cash-out

Year 6 through Year 12	20% cash-out
Year 13 through Year 20	30% cash-out
Year 21 through Year 24	40% cash-out
Year 25 and over	50% cash-out

ARTICLE 13 – OTHER LEAVE

13.1 – Paid and Unpaid Leave Required by State or Federal Law

The Employer provides employees with family and medical leave, pregnancy disability leave, military leave, and other paid and unpaid leave required by state and federal law, including:

- a. Family and Medical Leave (29 USC § 2601 et seq. and RCW 49.78).
- b. Family Care Act Leave (RCW 49.12.265).
- c. Pregnancy Disability Leave (RCW 49.60).
- d. Leave for Victims of Domestic Violence, Sexual Assault, and Stalking (RCW 49.76).
- e. Leave for Spouses of Deployed Military Personnel (RCW 49.77).
- f. Leave for Certain Emergency Services Personnel (RCW 49.12.460).

Leave eligibility, benefits, and requirements are determined by applicable state or federal law and will be administered according to the Employer’s personnel policies manual. In the event the Employer’s personnel policies manual conflicts with state or federal law, then the minimum requirements of the law shall apply.

13.2 – Bereavement Leave

Regular full-time, regular part-time, and initial/promotional probationary employees are entitled to up to five (5) days of paid bereavement leave for the death of an immediate family member. The specific length of paid bereavement leave shall be determined by the Employer.

For purposes of this section, “immediate family” includes spouse, domestic partner, children, stepchildren, foster children, siblings, grandparents, parents of the employee or the employee’s spouse, grandchildren, and any other familial inhabitant of the employee’s household.

For regular full-time and regular part-time employees, including promotional probationary employees but excluding initial probationary employees, any additional bereavement leave needed by an employee may be deducted from any accrued paid time off, including paid vacation leave and paid sick leave, if available. Paid bereavement leave, or other paid leave taken as additional bereavement leave, must be taken within thirty (30) days of the date of death of an immediate family member.

13.3 – Unpaid Religious Leave

Pursuant to RCW 1.16.050(3), an employee is entitled to two (2) unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. Leave will be provided in accordance with Washington law and the Employer's personnel policies manual. In the event the Employer's personnel policies manual conflicts with Washington law, then the minimum requirements of the law shall apply.

13.4 – Jury Duty

Employees are entitled to leave for jury duty service as required by law. Regular full-time and regular part-time employees, including initial/promotional probationary employees, shall be paid their straight time rate of pay for all hours of jury duty occurring during their regular working hours, provided they comply with the following conditions:

1. The employee remits to the Employer all compensation received for jury duty service (excluding travel or other reimbursable expenses).
2. The employee provides his/her jury duty summons to the Employer as soon as possible after it is received. Upon completion of jury duty service, the employee must also provide the Employer with proof of jury service.
3. The employee reports back to work on each day that they are released from jury duty during their regular working hours.

All employees of the bargaining unit receive leave if subpoenaed to testify in a judicial proceeding. The Employer retains the right to treat the leave as unpaid leave, unless the employee is a witness in a lawsuit or legal matter involving the Employer.

13.5 – Other Leaves of Absence

The Employer retains the right to grant an unpaid leave of absence to employees who require a leave of absence not covered by any other type of leave and who have exhausted all available leave banks. The decision to grant unpaid leave is determined by the Employer on a case-by-case basis. The terms of conditions of an unpaid leaves of absence are set by the Employer's personnel policies manual.

ARTICLE 14 – HEALTH AND WELFARE BENEFITS

14.1 – Eligibility for Insurance Benefits

Regular full-time employees, including promotional probationary employees who are employed on a full-time basis, are eligible for enrollment in the Employer's health insurance plans. Regular part-time employees working more than thirty (30) hours per week are also eligible for enrollment in the Employer's health insurance plans. Initial probationary employees are eligible for enrollment in the Employer's health insurance plans in the first full calendar month following the month of hire.

14.2 – Health Insurance Benefits

The Employer offers health insurance to eligible employees, their spouses, and their dependents through the Association of Washington Cities (AWC). The Employer offers the choice of two health plans: (1) AWC HealthFirst “No Deductible,” and (2) AWC Group Health \$10 Co-Pay. The Employer shall pay 100% of the premium for eligible employees and 75% of the premium for spouses and dependents. Eligible employees are responsible for payment of 25% of the premium for spouses and dependents. The terms and conditions of enrollment and coverage are stated in the Employer’s personnel policies manual and/or AWC’s enrollment materials. The Employer reserves the right to make changes to both the insurance carrier and the specific health insurance plans offered to employees, but will bargain the impacts of any such changes.

- a. **AWC Plan Elimination Deadline**—Effective January 1, 2018, the parties agree and understand that both health plans currently offered by the Employer will be terminated by AWC. The parties agree to begin discussions in 2016 or early 2017 concerning replacement plans.
- b. **Re-Opener in 2015** – In September of 2015, or on another date mutually agreed by the parties, the parties agree to reopen contract negotiations for purposes of bargaining movement from AWC health plans to health plans offered by the Washington Teamsters Welfare Trust. Any 2015 cost-savings recognized by movement to the Washington Teamsters Welfare Trust over those rates offered by a comparable AWC plan shall be split 50/50 between the parties, meaning the City will recognize 50% of the cost savings and will apply the remaining 50% into contractual economic enhancements for bargaining unit members (e.g. lump-sum payment, wage increase, reduced cost-sharing, or other proposals).

14.3 – Dental Insurance Benefits

The Employer offers dental insurance through Delta Dental. The Employer pays 100% of the cost of premiums. The Employer reserves the right to change dental insurance carriers and plans assuming benefit levels are not substantially altered.

14.4 – Employee Assistance Program

The health insurance plan selected by employees may offer a voluntary Employee Assistance Program (EAP). The program, if available through the health insurance plan, offers voluntary professional and confidential counseling and assistance to employees whose job performance, health, or well-being are adversely affected by personal reasons. Employees who seek such counseling and assistance may elect to use accrued paid sick or vacation leave for time spent during working hours.

14.5 – Industrial Insurance

Industrial insurance during regular working hours shall be provided in accordance with Washington law.

14.6 – Life Insurance

The Employer provides life insurance through Standard Life and Accident Insurance Company. The Employer pays 100% of the cost of premiums and provides coverage in the amount of \$20,000 per employee and a limited option of up to \$1,000 per spouse/child. The Employer reserves the right to change life insurance carriers and plans assuming benefit levels are not substantially altered.

14.7 – Long-Term Disability Insurance

The Employer provides long-term disability insurance through Standard Life and Accident Insurance Company. The Employer pays 100% of the cost of premiums. The Employer reserves the right to change life insurance carriers and plans assuming benefit levels are not substantially altered.

14.8 – Vision and Orthodontia Coverage

In conjunction with its health insurance plans, AWC offers optional enrollment in vision and orthodontia coverage. The current plan offerings are Vision Service Plan – Full Family (\$25 deductible) and Orthodontia – Plan V. Both plans require 100% participation by the bargaining unit. The bargaining unit, as a whole, may elect to enroll in these plans at their sole expense.

14.9 – Benefits During Leaves of Absence

Unless otherwise required by law, employees on unpaid leaves of absence do not receive or accrue employee benefits. Eligible employees may, however, elect at their sole expense to continue their health insurance coverage at regular rates.

ARTICLE 15 – WAGES

15.1 – Classifications, Wages, and Salary Schedule

Wages, steps, and ranges for all employee classifications in the bargaining unit are listed in Appendix A to this Agreement.

15.2 – Step Dates

Regular full-time, regular part-time, and promotional probationary employees shall have their wages increased to the next step on their step-increase eligibility date, upon a satisfactory performance evaluation, and subject to the availability of funding in their department. For all employees hired on or before June 1, 2015, the step-increase eligibility date is the first day of the month of hire. For all employees after June 1, 2015, including all future employees, the step-increase eligibility date is the first day of the month of hire if hired from the 1st through the 15th of the month, or the first day of the month following the month of hire if hired from the 16th through the 31st of the month.

15.3 – Higher Education Premium

Regular full-time, regular part-time, and initial/promotional probationary employees are eligible for the following higher education premiums added to their regular rate of pay:

- **Associate Degree (2 year degree)** 2.0%
- **Bachelor Degree (4 year degree)** 4.0%
- **Masters, Professional, or PhD** 6.0%

Premiums for multiple degrees do not compound. Each employee eligible for a higher education premium must present a copy of his/her degree to the Employer. A copy of the degree will be included in the employee's personnel records. The Employer will review each degree to determine whether the degree qualified for a higher education premium. The Employer may verify the legitimacy of any degree presented by an employee.

15.4 – Certification Premium

In lieu of a higher education premium provided by Section 15.3 of this Article, regular full-time, regular part-time, and initial/promotional probationary employees are eligible for certification premiums added to their regular rate of pay. Employees receiving certification premiums shall receive a premium of thirty-five dollars (\$35) per month per eligible certification, to a maximum of one-hundred and forty (\$140) dollars per month.

Certifications held by an employee are eligible for certification premiums only if they exceed the minimum qualifications of the classification held by the employee and provide a benefit to the Employer. In making these determinations, the Employer will review the employee's job description and consider input provided by the employee, the employee's immediate supervisor, and the Public Works Director. If an employee's request for a certification premium is denied, the employee may appeal to the Mayor for a final determination.

Certifications eligible for premium pay may include, but are not necessarily limited to, the following:

- CDL Class A or Class B
- CDL Endorsement for Hazardous Waste
- CDL Endorsement for Tanker
- Water Distribution Specialist (Trainee, I, and II)
- Water Distribution Manager (I, II, III, and IV)
- Waste Water Collection Specialist (I and II)
- Cross Connections Control Specialist
- Water Treatment Plant Operator (I and II)
- Septic System Inspector
- Backflow Prevention Assembly
- Asbestos Pipe
- Traffic Signal Technician

- Roadway Lighting Specialist
- Playgrounds
- Associate Signs & Markings Specialist (I, II, and III)

Any employee seeking certification is personally responsible for initial certification costs. Prior to incurring such costs, an employee should formally receive a determination from the Employer that the certification will qualify for a premium. If an employee is required to attend classes in order to obtain an eligible premium, the employee may request release time (unpaid unless the employee elects to use paid vacation or compensatory time off) or a modified work schedule. The Employer will accommodate requests for release time or a modified work schedule when operationally feasible. Once an employee has received an eligible certification, the Employer shall pay for all subsequent renewal fees. Payment for eligible certifications will become effective at the beginning of the next pay period and will not be paid retroactively. If an employee is promoted or transferred into a new classification, and a certification previously eligible for premium pay becomes a minimum qualification of the new classification, then the premium pay for that certification shall cease.

Multiple certifications held within the same series (*i.e.* CDL Class A and B) only qualify for one premium. Each employee eligible for a certification premium must present a copy of their certification to the Employer, to be included in the employee’s personnel file. The Employer may verify the legitimacy of any certification presented by an employee.

15.5 – Pension Contribution

The Employer shall make pension contributions to Washington’s Public Employees’ Retirement System (PERS) for each eligible employee, based on the terms and conditions imposed by Washington law. Participating employees shall pay any required amounts towards contribution costs by means of a payroll deduction.

15.6 – Deferred Compensation Contribution

The Employer participates in the Washington State Deferred Compensation Program. Regular full-time, regular part-time, and initial/promotional probationary employees may voluntarily participate as an avenue to save for retirement. Each calendar year, the Employer shall determine the amount it will contribute as part of a matching program. As of the signed date of this Agreement, the Employer provides up to a \$25.00 per month matching contribution, although this amount is subject to upward or downward adjustment. Participation in the Washington State Deferred Compensation Program and the Employer’s matching program shall be regulated by Washington and guidance from the Internal Revenue Service.

ARTICLE 16 – DISCIPLINE AND SEPARATION

16.1 – In General

All employees of the bargaining unit are expected to comply with the Employer’s policies governing anti-harassment, anti-discrimination, and the code of conduct. All discipline and

discharge actions for regular full-time, regular part-time, and promotional probationary employees shall be for “just cause.” The Employer retains the right to discipline and initial probationary employees as “at will” employees, with or without cause, and without recourse to the grievance procedure stated in this Agreement.

16.2 – Disciplinary Steps

Disciplinary action may include the following:

- a. Verbal warning.
- b. Written reprimand.
- c. Reassignment resulting in adverse economic impact.
- d. Suspension without pay.
- e. Permanent or temporary demotion.
- f. Discharge.

Progressive discipline is generally preferred, but not required. The Employer may tailor discipline to respond to the nature and severity of the offense and the employee’s prior disciplinary record. The steps of the discipline structure will usually be sequential unless the gravity of an offense, or other extenuating circumstances, justify a more severe response.

16.3 – Verbal Warnings and Written Reprimands

- a. **Verbal warning** – The Employer may issue a verbal warning at any time for cause. A verbal warning shall carry no additional penalty. The Employer may record having issued a verbal warning. If the Employer records the instance of a verbal warning, then the record shall reflect the nature and date of the offense, the date of the verbal warning, and the substance of the warning.
- b. **Written reprimand** – The Employer may issue a written reprimand at any time for cause. A written reprimand must state the nature and date of the offense, describe the expected employee behavior, and cite the authority (Employer authority, professional expectations, or the law) for the expected employee behavior. A written reprimand shall carry no additional penalty.
- c. **Grievance procedure** – Verbal warnings are not subject to the grievance procedure. Written reprimands may be grieved through Step 2 of the grievance procedure. If the Union has grieved a written reprimand through Step 2 of the grievance procedure and the Employer later relies on the written reprimand for purposes of imposing a higher level of discipline, then the Union shall have the opportunity at grievance arbitration to contest the merits of the written reprimand alongside the higher level of discipline.

16.4 – Discipline Procedure Other Than Verbal Warning or Written Reprimand

- a. **Notice of Intent to Discipline** – If the Employer intends to impose discipline other than a verbal warning or written reprimand, the Employer shall inform the employee in writing. The written notice shall describe the event or conduct to enable the employee to understand the general nature of the concern or allegations. The Employer may provide written notice either before or after conducting a preliminary investigation.
- b. **Pre-Disciplinary Meeting** – Upon at least twenty-four (24) hours written notice to both the employee and the Union, the Employer may call a pre-disciplinary meeting at which the Employer will state its concerns or allegations, modified by what it has learned to date through any investigation or otherwise, and provide the employee an opportunity to respond. The employee may elect to attend the pre-disciplinary meeting accompanied by a Union representative.
- c. **Disciplinary Decision** – No sooner than the day following the close of a pre-disciplinary meeting, but no later than twenty-one (21) working days after the close of a pre-disciplinary meeting, the Employer shall inform the employee and the Union in writing of the Employer's decision.

16.5 – Employer Investigations

- d. **Duty to Cooperate** – Employees have an obligation to cooperate with any investigation conducted by the Employer. Failure to do so will be considered insubordination and will be grounds for discipline.
- e. **Union Representation** – If the Employer elects to conduct a disciplinary investigation, an employee is entitled, at his/her request, to have Union representation during any investigatory interview conducted by the Employer that the employee reasonably believes may result in his/her discipline or discharge. During such an investigatory interview, a participating Union representative will be given the opportunity to ask questions, offer additional information, and counsel the employee, but may not obstruct the Employer's investigation.
- f. **Administrative Leave** – The Employer may, at its discretion, place employees on paid administrative leave during an investigation. Employees on such paid administrative leave must remain available during their normal hours of work and are not permitted to accept outside employment. Placement on paid administrative leave is not subject to the grievance procedure stated in this Agreement.

16.6 – Resignation and Retirement

Employees are expected to provide a minimum of two weeks' notice of planned resignations or retirements.

16.7 – Right to Inspection of Personnel Files

An employee, upon written request to the Employer, shall have the right to inspect the entire contents of his/her personnel file. The inspection shall take place on the Employer's premises at a date and time mutually agreeable to the Employer and employee.

16.8 – Removal of Disciplinary Records

Employees may request, in writing, the removal of disciplinary records from their personnel files in accordance with the following terms and conditions:

- a. Verbal Warning – Written records of a verbal warning may be removed after twelve (12) months without a reoccurrence of the same or similar conduct giving rise to the verbal warning.
- b. Written Reprimand – Written reprimands may be removed after twelve (12) months without a reoccurrence of the same or similar conduct giving rise to the written reprimand.
- c. Suspensions – Suspensions may be removed after thirty-six (36) months without a reoccurrence of the same or similar conduct giving rise to the written reprimand.

When a disciplinary record is removed from an employee's personnel file, it shall not be considered for purposes of progressive discipline, but may be introduced as evidence by either the Employer or the Union during grievance arbitration. Records of disciplinary action removed from personnel files in accordance with this Article shall be kept by the City as required by Washington state records retention laws and the Employer's records retention policies.

ARTICLE 17 – GRIEVANCE PROCEDURE

17.1 – In General

The Employer and the Union recognize the need for fairness and justice in the adjudication of employee grievances. Employees are encouraged to attempt to resolve complaints through informal discussions with the Employer and any applicable supervisors. An employee presenting an informal grievance shall have the option of being accompanied by a Union representative. If a grievance cannot be resolved informally, the grievance will be settled according to the procedure provided below.

17.2 – Definition of Grievance

A grievance is a dispute between the Employer and the Union, on the Union's own behalf or on behalf of an employee or group of employees, over an alleged violation, misinterpretation, or misapplication of an express Article, section, term, or provision of this Agreement. Verbal warnings are not subject to the grievance procedure. Written reprimands may only be grieved pursuant to the terms of Article 16.3(c).

17.3 – Election of Remedies

The Employer and the Union expect the procedures contained in this Agreement, if applicable, to be the sole remedy for grievances. The Employer and the Union also recognize that employees have legal rights independent of this Agreement. If the Union seeks arbitration of a dispute within the procedure established by this Agreement, that election shall be deemed to have waived external remedies to the extent allowed by state and federal law. If an employee or the Union seeks redress or review from any external body, whether administrative or judicial, then whether or not such body accepts the matter for review, the Union and/or the employee shall have elected the external remedy to the exclusion of all rights under this Agreement.

17.4 – Time Limits

To timely initiate the grievance process, a party must file a formal written grievance within ten (10) working days beginning on the date the party knew, or reasonably should have known, of the events giving rise to the grievance.

For purposes of this Article, “working day” shall be defined as Monday through Friday, excluding holidays recognized by the Employer. Submissions will be considered timely under this Article if they are received by 5:00 p.m. on the last day of an applicable time limit.

The day after the event, act, or omission shall be the first day of a timeline under this Article. In the event a time limit under this Article falls on a weekend or holiday, the deadline will be automatically extended to the following working day.

Time limits within the grievance procedure may be waived or extended by the mutual agreement of the parties. If the Union, on behalf of itself or employees, fails to act or respond within the specified time limits, the grievance shall be considered waived. If the Employer fails to respond within the specified time limits, the grievance shall proceed to the next step of the grievance procedure.

17.5 – Required Content of Grievance

A grievance must satisfy the following conditions:

1. Be submitted in writing.
2. Describe the facts giving rise to the grievance with sufficient particularity to permit the Employer to understand the nature of the grievance.
3. Identify the provision(s) of the Agreement allegedly violated.
4. Identify the aggrieved employee(s).
5. Identify the remedy sought.
6. Be signed and dated by the Union representative and/or the affected employee(s).

17.6 – Grievance Procedure

1. **Step 1** – The grievance procedure shall be initiated by personally serving a grievance upon the Mayor, City Administrator, or the Human Resources Director. The grievance must be served within ten (10) working days beginning on the date the party knew, or reasonably should have known, of the events giving rise to the grievance. Thereafter, the immediate supervisor (if applicable, otherwise, the Human Resources Director) shall respond in writing to the Union and the aggrieved employees within ten (10) working days.
2. **Step 2** – If the grievance is not resolved at Step 1, then within ten (10) working days of the Employer’s written response in Step 1, a written appeal, signed by the Union and/or the affected employee(s), shall be personally served upon the Mayor, City Administrator, or the Human Resources Director. The Employer, acting through the Mayor, shall thereafter schedule a meeting with the Union and aggrieved employee(s) within fifteen (15) working days from receipt of the written appeal. During the meeting, aggrieved employees have the right to be accompanied by a Union representative. Thereafter, the Mayor shall respond in writing to the Union and the aggrieved employees within ten (10) working days.
3. **Step 3, Arbitration** – If the grievance is not resolved at Step 2, the parties may proceed to final and binding arbitration. Prior to arbitration, the parties may mutually agree to first proceed with mediation, in which case the timelines for arbitration shall be extended to accommodate the mediation process.
 - a. **Notice** – Within twenty (20) working days following receipt of the Employer’s written response in Step 2, the Union shall notify the Employer, in writing, of its intent to proceed with arbitration.
 - b. **Arbitrator Selection** – After the Union has provided timely notice of its intent to proceed with arbitration, the parties shall select an impartial arbitrator within thirty (30) working days. If the parties cannot mutually agree on an impartial arbitrator who is able and willing to serve on a timely basis, the parties will request a list of nine (9) impartial arbitrators able to abide by time limitations. The list will be provided by the Public Employment Relations Commission (PERC) or the American Arbitration Association (AAA). In the event the parties cannot agree on the source of an impartial list, then the list shall be provided by PERC. Once a list has been provided, the parties shall flip a coin to determine who will strike the first name, following with subsequent strikes alternating between the parties, until one (1) name remains. The remaining name will serve as the arbitrator.
 - c. **Decision, Time Limit** – The arbitrator will meet and hear the matter at the earliest possible date after the selection process. After completion of the

hearing, a written decision shall be entered within thirty (30) working days, or as soon as possible thereafter, unless an extension of time is agreed upon by the parties.

- d. **Jurisdiction of Arbitrator** – The grievance submitted to the arbitrator shall be the original written grievance unless the Employer and the Union agree otherwise. Only one (1) grievance may be submitted to the arbitrator at one (1) hearing, unless the Employer and the Union agree otherwise. The arbitrator shall only have the power to interpret and apply the specific terms of the Agreement and/or determine whether there was a violation of the terms of the Agreement. The arbitrator shall also have the authority to receive evidence, question witnesses, and dictate the orderly procedure of the hearing. The arbitrator shall not have the authority to add to, subtract from, alter, change, or modify the provisions of this Agreement, nor limit or impair any common law right of the Employer or the Union.
- e. **Final Binding Award** – The arbitrator’s written award shall be final and binding upon the parties. In any arbitration alleging a violation of rights protected by this Agreement, the arbitrator’s authority to award monetary damages shall be limited to back pay and related benefits, and shall not include compensatory or punitive damages.
- f. **Costs, Fees, and Expenses** – Each party is responsible for its own costs, fees, and expenses incurred in handling the grievance and presenting its case. The parties agree to equally share in the costs and expenses charged by the arbitrator.
- g. **Challenges to Arbitrability** - Unless otherwise agreed by the parties, challenges to the procedural arbitrability of a grievance shall be resolved in an arbitration proceeding separate from and prior to arbitration on the merits of the grievance. If arbitration is required to determine the procedural arbitrability of a grievance, then the selection of the arbitrator and arbitration procedure shall be based on the steps stated in this section. Within ten (10) working days following receipt of an arbitrator’s award ruling that a challenged grievance is subject to arbitration, the parties will begin the process described in Article 17.6(3)(b) to select an arbitrator to rule on the merits of the grievance.

ARTICLE 18 – LAYOFF, FURLOUGH, AND RECALL

18.1 – In General

The Employer retains the right to determine the need for layoffs, furlough days, and the classifications subject to layoff or furlough. In the event of a layoff, initial probationary employees in a classification subject to layoff shall be laid off first. Thereafter, layoffs shall be determined by order of seniority within a classification. Employees who have previously held a

lower classification within the bargaining unit shall have the right to return to such lower classification if their seniority is greater than the employee in such classification and if they meet the qualifications of the position. Employees shall not accrue seniority while on layoff.

18.2 – Recall from Layoff

Laid off employees have the right to recall from layoff. Recall shall be based on seniority within a classification. The period of recalling laid off employees shall be limited to twelve (12) months, beginning on the date of the layoff. The Employer retains the right to extend the twelve (12) month period at its discretion. As a mandatory condition of recall, an employee must be qualified to hold the position. It is the responsibility of each laid off employee to provide current contact information with the Employer. Failure of a laid off employee to report for reinstatement within ten (10) days of notification by the Employer shall result in forfeiture of the right to recall. If, during a layoff, an employee is required to maintain a license or certification necessary to remain qualified for his/her former position with the Employer, the Employer shall reimburse the employee for the cost of the license or certification at the time the employee is reinstated to his/her former position.

18.3 – Furlough Days in 2015

For 2015, the parties recognize the City will be implementing ten (10) furlough days across all departments, and that two classifications in the bargaining unit, Public Works Administrative Assistant (including promotion into a new classification, Capital Projects Program Manager) and Public Works Facilities Equipment Coordinator, will be subject to these furlough days. No other members of the bargaining unit are impacted.

ARTICLE 19 – BARGAINING UNIT WORK

19.1 – Subcontracting

The work of the Union’s bargaining unit shall be performed only by employees of the bargaining unit except as otherwise provided in this Agreement or otherwise bargained with the Union.

ARTICLE 20 – PERFORMANCE OF DUTIES/NO RIGHT TO STRIKE

The parties recognize that the Employer provides important public services and has the right to provide such services on an uninterrupted basis. The Union shall not authorize a strike, work stoppage, or slowdown, and the Employer shall not engaged in a lockout during the term of this Agreement. The Union shall take all reasonable means within its power to induce employees engaged in a strike, work stoppage, or slowdown, in violation of this Agreement, to return to work. Every attempt shall be made to settle all disputes or controversies arising under this Agreement under the grievance and arbitration procedures provided herein.

ARTICLE 21 – SCOPE AND DURATION OF AGREEMENT

21.1 Term of Agreement

This Agreement is effective April ____, 2016 and continues through December 31, 2017. If either party desires to negotiate a successor agreement, they shall provide notice to the other party and the parties shall, within a reasonable time frame, set a schedule for contract negotiations. In the event negotiations for a successor agreement have not been completed by the termination date of this Agreement, then the *status quo* shall be maintained to the extent required by Washington law.

21.2 Severability

If any provision of this Agreement, or amendments or addendums thereto, are held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any provision should be restrained by such tribunal, the remainder of this Agreement, amendments, and addendums shall not be affected thereby, and the parties shall immediately enter into collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of the invalid provision.

APPENDIX A—WAGE TABLE

Employee	Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Scott Hanis	Capital Project/Program Manager	5,355	5,622	5,903	6,198	6,508
Ken Blakely	Public Utilities Operator	4,713	4,794	4,889	4,982	5,076
<i>Vacant</i>	PW Admin Asst. 3	4,250	4,463	4,686	4,920	5,167
Kevin Esping	Facilities Equipment Coordinator <i>(position closed, Kevin Esping grandfathered)</i>	X	X	X	X	5,757
Jason Pittam	Utility Worker-Facility/Eq/Utility Worker	3,323	3,644	3,965	4,287	4,629
	Utility Worker (Seasonal)	13.24	X	X	X	X

Signed this ____ day of April, 2016.

Signed this ____ day of April, 2016.

SIGNED FOR THE CITY OF BLACK DIAMOND

SIGNED FOR TEAMSTERS LOCAL NO. 117
(Public Works Unit)

Mayor Carol Benson

John Searcy, Secretary-Treasurer
Teamsters Local 117

Jason Pittam

BLACK DIAMOND PUBLIC WORKS DEPARTMENT

STAND-BY / ON-CALL POLICY

A. INTENT

1. The goal of this policy is to provide emergency coverage for the City's utilities, including the water system, sewer system, streets, storm drainage systems, parks, and cemetery.

B. BACKGROUND

1. The City provides 24-hour coverage for all public works utilities described above. This policy is intended to ensure coverage during weekends, holidays, and after regular working hours, by placing employees "on call," available to respond to the City when called upon. Employees placed on-call are provided on-call and call-back compensation as provided below. When other employees are unavailable due to approved leave, approved vacation, or a lack of qualifications for on-call responsibilities, on-call coverage shall remain the responsibility of the Public Works Supervisor.

C. ON-CALL SCHEDULING

1. The Public Works Supervisor shall be responsible for scheduling on-call coverage. On-call coverage is assigned by a rotating list of qualified employees. At the start of each calendar year the rotation from the previous year will continue in sequence, unless another qualified employee is added to the rotation. On-call responsibilities and the on-call schedule shall be clearly identified on the on-call calendar available to all employees. Employees with questions about the schedule and their on-call assignments should consult the Public Works Supervisor.
2. On-call periods last one week, beginning Monday @ 8:00 am through the following Monday @ 8:00 am. Absent a voluntary agreement from the effected employees, in the event of changes to the on-call schedule, employees are generally provided at least four (4) weeks' notice of

scheduled on-call duties. When approved by the Public Works Supervisor, employees may agree to accept on-call responsibilities when provided notice shorter than four (4) weeks. When an employee is on-call and a holiday lands on a Monday, the on-call employee will continue to be on-call until Tuesday morning @ 8:00 am.

3. Employees shall consult the on-call calendar prior to scheduling a vacation and should attempt to schedule vacation around their assigned on-call shifts. When an employee submits a vacation request for days when the employee is assigned to be on-call, the employee shall notify the Public Works Supervisor as soon as possible to assign alternative coverage. With approval from the Public Works Supervisor, the employee may trade his/her scheduled on-call shifts with another employee (a "trade") or have another employee receive additional compensation for taking on the extra on-call shifts (a "substitution"). If no voluntary trades or substitutions can be obtained, the Public Works Supervisor shall delegate the on-call shifts to an available employee, assume coverage of the on-call shifts, or deny the vacation request.
4. Any disputes concerning on-call scheduling, trading, or substitutions that cannot be voluntarily resolved shall be resolved by the Public Works Director in consultation with the Public Works Supervisor.

D. ON-CALL EXPECTATIONS

1. **Response**- During on-call shifts, the employee with on-call responsibility shall be responsible for responding by phone to any utility related emergency calls or pages received on the communications device provided by the City (pager, cell phone, etc.) as soon as possible after receiving the call or page, and shall remain within one (1) hour response time (from the time of the initial page or call) from the City Shop in Black Diamond. The on-call employee is not required to remain at their place of residence while on-call.

2. **Condition**- The on-call employee shall refrain from the use of alcohol or other drugs during the on-call period, and shall otherwise be in a condition fit for response to an emergency situation involving one or more of the City's utilities.
3. **Assistance**- If the on-call employee needs assistance, he/she needs to call the Public Works Supervisor first, the on-call employee shall be responsible for making further calls for assistance from other utility employees, Department Heads, small works list contractors, etc.
4. **Care of Equipment**-The communication devices provided by the City (cell phone, pager, etc.) are property of the City. Employees shall use care in ensuring that these devices are in good working order, and shall immediately report any problems to the Public Works Supervisor.
5. **Emergency Call-Back**- Absent an emergency, employees not scheduled for on-call duties may be called back only on a voluntary basis.

E. ON-CALL / CALL-BACK COMPENSATION

Non-exempt employees are entitled to additional on-call / call-back compensation as provided below.

1. While employees will generally have on-call responsibilities for a full week (Monday @ 8:00 am through the following Monday @ 8:00 am), compensation shall be based upon the number of shifts spent on-call, exclusive of time spent during normal work hours. Each on-call shift lasts eight (8) hours. In general, weekdays, Monday through Friday, have two (2) on-call shifts each per day, Saturday and Sunday each have three (3). A full week (Monday through Monday) would have a total of sixteen (16) on-call shifts.
2. An employee shall be compensated .75 hours of total pay or compensatory time at their base wage rate, per on-call shift, for providing on-call coverage.

Example: A full week (Monday through Monday) of on-call coverage would result in .75 hours x 16 shifts = 12 hours total compensatory time or on-call pay at a rate equal to the employees current base hourly wage.

3. If compensatory time is chosen in lieu of pay, the City's general policies and Public Works collective bargaining agreement governing compensatory time shall apply. Employees are encouraged to use any compensatory time earned within the same month that is earned.
4. When an employee is responsible for providing on-call coverage, and he/she is required to physically respond to the City to handle an emergency or other issues requiring a response (a "call-back"), he/she shall be entitled to a minimum of two (2) hours at the regular rate of pay, or the actual amount of time worked greater than two (2) hours, whichever is greater. Hours worked during on-call coverage, including the two (2) hour minimum guarantee, count towards non-exempt employees' weekly overtime threshold.
5. For employees called-back on a recognized holiday (including two City-sponsored public events: Labor Day Parade and Miner's Day), all hours worked during a call-back shall be paid at the overtime rate, including the minimum guarantee of two (2) hours. Otherwise, call-back pay shall be the regular rate of pay unless the employee is otherwise entitled to overtime under state or federal law.

F. REPORTING

1. An on-call reporting sheet ("Incident Response Report") shall be submitted by each employee as part of their regular time sheets, at the end of each month. Each request shall identify the dates for which on-call time was served, and the total number of shifts spent on-call. Each request shall be reviewed and signed by the Public Works Supervisor.
2. While on-call, each on-call employee shall maintain a weekly on-call shift log noting all on-call activity. This log shall be submitted to the Public Works Supervisor with the employee's time sheet at the end of the pay period.

G. DISCIPLINARY ACTION

1. Failure to respond within or comply with the guidelines set forth above while on-call may result in disciplinary action, up to and including termination of employment, consistent with the City’s general discipline policies and the discipline policy stated in the Public Works collective bargaining agreement.

H. EMPLOYEE ACKNOWLEDGMENT

I _____ have read and understand the attached Public Works Stand-By / On-Call Policy of the City of Black Diamond.

Employee Signature

Date

Employee Name

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to sign a Professional Services Agreement with DKS Associates for the transportation element in the Comprehensive Plan update	Agenda Date: April 7, 2016	
	AB16-026	
	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barbara Kincaid	X
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$34,655 fixed rate total includes two optional tasks (1)\$3,615 for Public Open House and (2) \$6,555 to attend Public Hearings	Public Works – Seth Boettcher	
Fund Source: - Comp Plan Update-2016 Budget	Court – Stephanie Metcalf	
Timeline: April-June 2016		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Draft Resolution; Professional Services Agreement		
SUMMARY STATEMENT: The City entered into a Professional Services Agreement with BergerAbam in 2014 and agreed to a scope of work and budget to update the Comprehensive Plan as required under the Growth Management Act (GMA). BergerAbam hired DKS Associates as their subconsultant for the transportation element of the Comprehensive Plan. The City terminated the Agreement with BergerAbam in October 2015 before DKS Associates had completed all the tasks in the original scope of work. However, at the time the BergerAbam contract was terminated, DKS had already completed over 90% of the tasks in the scope of work for the transportation element. The City has not been billed for the remaining work in the scope that was not done. The City needs DKS to complete the tasks in the original BergerAbam Agreement scope of work in order for the draft transportation element to be whole. In addition, staff has identified additional tasks that are needed to ensure the final draft transportation element is comprehensive for the public, planning commissioners, and council members. Tasks from the original scope that need to be completed include the following: <ul style="list-style-type: none"> • Complete the planning level costs for recommended transportation improvements • Respond to the City’s review comments and coordination meeting New tasks include: <ul style="list-style-type: none"> • Traffic simulation modeling • Presentation to staff, Planning Commission, and City Council at joint work session • Presentation of traffic analysis and simulation findings at a Public Open House 		

- Attend City Council/Planning Commission Hearings

The timely approval of this Agreement is important because the Comprehensive Plan update is behind the GMA schedule for adoption. This is causing the City to be ineligible for grant funds.

FISCAL NOTE (Finance Department): The funds for the DKS Agreement for \$34,655 are already included in the 2016 Comp Plan Budget.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **Motion for accept as first reading and adopt Resolution No. 16-? (Clerk to assign number at time of adoption), authorizing the Mayor to sign a Personal Services Agreement with DKS Associates.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
April 7, 2016		

RESOLUTION NO. 16-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH DKS ASSOCIATES TO COMPLETE THE DRAFT TRANSPORTATION ELEMENT PORTION OF THE COMPREHENSIVE PLAN UPDATE; IN THE AMOUNT OF \$24,485.00 WITH TWO OPTIONAL TASKS THAT, IF AUTHORIZED BY THE CITY, WOULD INCREASE THE CONTRACT AMOUNT TO \$34,655.00

WHEREAS, City of Black Diamond is in need of consulting services to complete the update of its Comprehensive Plan mandated by the State of Washington; and

WHEREAS, in 2014, the City entered into a Professional Services Agreement (Agreement) with BergerAbam, a planning consulting firm, to provide such services under an agreed upon scope of work and budget; and

WHEREAS, BergerAbam began work under the Agreement and subcontracted with DKS Associates for the transportation element of the Comprehensive Plan update;

WHEREAS, the City terminated the Agreement with BergerAbam prematurely, and before DKS completed all of the transportation planning work defined in the scope and budget of the Agreement; and

WHEREAS, the City still needs the remaining transportation planning work to be completed by DKS Associates; and

WHEREAS, the City has also identified additional tasks that are needed in order for the City to be successful in updating its Comprehensive Plan; and

WHEREAS, DKS Associates has provided a scope of work and budget which includes the incomplete tasks from the BergerAbam Agreement together with the newly identified tasks, as needed to complete the transportation element, as described in Exhibit A, attached to the DKS Professional Services Agreement; and

WHEREAS, the proposed contract is in the amount of \$24,485.00 for DKS to complete the work required for the City's Comprehensive Plan update; and

WHEREAS, the proposed contract also includes two "optional" elements (Exhibit A to the Professional Services Agreement attached), which the City could authorize if needed, and which would increase the contract amount to not more than \$34,655.00; and

WHEREAS, the City has identified and budgeted for completion of the Comprehensive Plan update and these amounts in the 2016 budget;

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

Section 1. The Mayor is authorized to execute the attached Professional Services Agreement with DKS Associates for transportation planning services to complete its Comprehensive Plan update, in the amount of \$24,485.00, with two optional tasks that may be authorized by the City and which may increase the contract amount to not more than \$34,655.00.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS ____ DAY OF ____, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the _____ day of _____, 2016, by and between the City of Black Diamond, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF BLACK DIAMOND, WASHINGTON (hereinafter the "CITY")
24301 Roberts Drive
Black Diamond, WA 98010
Contact: Mayor Carol Benson Phone: 360-886-5700 Fax: 360-886-2592

And DKS Associates, a corporation, organized under the laws of the State of Washington, doing business at:

DKS ASSOCIATES (hereinafter the "CONSULTANT")
720 SW Washington St, Suite 500
Portland, Oregon 97205
Contact: Chris Maciejewski, PE Phone: 503-243-3500

for professional services in connection with the following Project:

Black Diamond Comprehensive Plan Update Transportation Element

TERMS AND CONDITIONS

1. Services by Consultant.

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. Consultant shall perform the services described in the scope of work in accordance with the Schedule attached to this contract as Exhibit "A." If delays beyond Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. Terms. This Agreement shall commence on upon the date that both parties sign this contract and shall terminate on June 30, 2016 unless extended or terminated in writing as provided herein.

Revised 3/30/16

4. Compensation.

- FIXED FEE.** Compensation for these services shall be a Fixed Fee of \$24,485. Compensation for optional tasks with City authorization shall be a Fixed Fee of \$3,615 for Task 6 and \$6,555 for Task 7.
- TIME AND MATERIALS NOT TO EXCEED.** Compensation for these services shall not exceed \$_____ without written authorization and will be based on billing rates and reimbursable expenses attached hereto as Exhibit C.
- TIME AND MATERIALS.** Compensation for these services shall be on a time and material basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "_____."
- OTHER.** _____

5. Payment.

A. Consultant shall provide monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within forty-five (45) days of receipt of a proper invoice. 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.

C. Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. 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 Revised Code of Washington (RCW) 51.08.195, as required by law, 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 Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

6. Discrimination and Compliance with Laws

A. Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. 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

approval of the City and shall be subject to the City's general right 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.

C. Consultant shall obtain a City of Black Diamond business license prior to receipt of written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility for further work for City.

7. 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.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. The Agreement may be terminated upon the default of the Consultant.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City, and Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. Consultant shall not be entitled to any reallocation of cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been

fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. **Standard of Care.** Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant 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.

10. Ownership of Work Product.

A. All data materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of City, shall be forwarded to City at its request and may be used by City as it sees fit. Upon termination of this agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City.

B. 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.

11. **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 or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. **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, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. 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.

13. Insurance. 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 performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. Employer's Liability insurance each accident \$1,000,000; Employer's Liability Disease each employee \$1,000,000; and Employer's Liability Disease – Policy Limit \$1,000,000.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to Consultant or by Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Carol Benson
Mayor
24301 Roberts Drive
Black Diamond, WA 98010

Phone: 360-886-5700
Fax: 360-886-2592

DKS Associates
Attn: Chris Maciejewski, PE
720 SW Washington St, Suite 500
Portland, Oregon 97205

Phone: 503-243-3500

16. Resolution of Disputes and Governing Law.

A. 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 Mayor, who shall determine the term or provision's true intent or meaning. The Mayor 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.

B. 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's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained 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 in full force and effect.

B. Modification. No waiver, alteration, 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.

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

D. Entire Agreement. The written provisions 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, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated 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 the day and year set forth above.

CITY OF BLACK DIAMOND,
WASHINGTON

DKS ASSOCIATES

By: _____
Carol Benson
Mayor

By: Chris Maciejewski

Name: Chris Maciejewski

Title: Principal

Date: _____

Date: 3/30/16

Attest:

By: _____
Brenda Martinez
City Clerk

APPROVED AS TO FORM:

By: 
Carol A. Morris
City Attorney

Exhibit "A" City of Black Diamond Professional Services Agreement

Black Diamond Comprehensive Plan Update Transportation Element Work Schedule

March 7, 2016

Scope Task	Schedule
Task 1 – Planning Level Cost Estimates for recommended transportation improvements	Within 1 month of signed contract
Task 2 – Respond to City Comments	Within 1 month of signed contract
Task 3 – Traffic Simulation Modeling	Within 2 months of signed contract
Task 4 – City Staff Coordination Meeting	Within 3 months of signed contract
Task 5 – Joint City Council/Planning Commission Work Session	Within 3 months of signed contract
Optional Tasks	
Task 6 – Public Open House to present traffic analysis and simulation findings	TBD
Task 7 – City Council/Planning Commission Hearings	TBD

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute the City's written final plat approval for the Diamond Ridge subdivision	Agenda Date: April 7, 2016	
	AB16-027	
	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barbara Kincaid	X
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): none	Public Works – Seth Boettcher	X
Fund Source: -- n/a	Court – Stephanie Metcalf	
Timeline: n/a		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Resolution; Staff Report; Hearing Examiner Report; CC&Rs; Performance Bond; Plat Map		
SUMMARY STATEMENT: The Diamond Ridge Subdivision is a 10-lot plat that received Preliminary Approval in 2011. The Diamond Ridge Preliminary Plat is located at 32355 5 th Ave in the R4 Single Family Residential zone district. The owners, Shake and Bake, LLC, have completed the preliminary plat requirements and are now requesting final plat approval. Staff has worked with the applicants to ensure the Preliminary Plat approval requirements have been met. Staffs written findings and a recommendation for approval are documented in a staff report for City Council review. Based on the staff report, if the Council determines that the final plat conforms to all terms of the preliminary plat approval and that adequate bonds have been posted, then by Resolution, it shall accept staff's written findings and authorize the Mayor to execute final plat approval by entering the city's written approval on the face of the plat.		
FISCAL NOTE (Finance Department): No fiscal impact		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to accept as first reading and adopt Resolution No. 16-? (Clerk to assign number at time of adoption), approving the final plat for the Diamond Ridge Subdivision (PLN 15-0044); setting forth supportive findings and fixing a time when the final plat shall become effective.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
April 7, 2016		

RESOLUTION NO. 16-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON GRANTING FINAL PLAT APPROVAL TO THE DIAMOND RIDGE SUBDIVISION, 5TH AVENUE AND PARK STREET; APPLICATION PLN15-0044

WHEREAS, in 2011, an application was submitted to the City for a preliminary plat to divide 2.85 acres of property located at 5th Avenue and Park Street, in Black Diamond, Washington, into ten lots, located in the R4 Single Family Residential zone district; and

WHEREAS, on November 23, 2011, the Hearing Examiner held a hearing on the preliminary plat, and on December 11, 2011, the Hearing Examiner granted preliminary plat approval, subject to thirteen (13) conditions; and

WHEREAS, Shake n Bake, LLC, a Washington limited liability corporation, subsequently acquired the property in the preliminary plat; and

WHEREAS, Shake n Bake submitted an application for final plat approval of the plat, named Diamond Ridge, in accordance with Black Diamond Municipal Code (BDMC) Chapter 17.20 on January 6, 2016; and

WHEREAS, after receipt of the application, the City staff performed the necessary inspections, and the City staff determined that the applicant has completed and/or submitted appropriate financial guarantees for all required improvements, all as set forth in the attached Staff Report; and

WHEREAS, the applicant has submitted for review and approval by the City Council a final plat map contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full; and

WHEREAS, the final plat application has been reviewed by relevant City departments; and

WHEREAS, the City of Black Diamond staff has determined that all conditions of the preliminary plat have either been met or bonded for and has recommended that final plat be granted subject to the terms and conditions of those bonds; and

WHEREAS, the final plat application was forwarded to the City Council for action during the regular meeting of April 7, 2016;

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

Section 1. Findings. The Black Diamond City Council makes the following findings with regard to the Diamond Village final plat:

A. Public Works Director. Pursuant to BDMC Section 17.20.060, the Public Works Director has recommended approval of the final plat because:

(1) it meets the standards established by state law (chapter 58.17 RCW), the City's subdivision regulations (Chapter 17.20), the City's zoning, the preliminary plat conditions of approval and the City's development standards relating to the final plat drawings and subdivision improvements;

(2) it bears the certificates and statements of approval required by chapter 17.20 BDMC;

(3) the current title insurance report furnished by the applicant/property owner confirms the title of the land in the proposed plat is vested in the name of the owners whose signatures appear on the plat's certificate; and

(4) the facilities and improvements required to be provided by the applicant/property owner have either been completed, or the applicant/property owner has provided a bond in an amount and with sureties commensurate with improvements remaining to be completed, securing to the City the construction and installation of the improvements and that all survey monument lot corners are in place and visible.

B. Compliance with Conditions of Hearing Examiner's Decision and applicable law. Both the Public Works Director and the Community Development Director have determined that the final plat conforms to the conditions of preliminary plat approval, subject to the bond. In addition, the Community Development Director has determined that the final plat is in conformance with any applicable zoning ordinance or other land use controls which may exist, pursuant to RCW 58.17.195.

C. City Council. Pursuant to BDMC Section 17.20.060, and consistent with the attached Staff Report, the City Council has determined that:

1. With the bond that has been posted, the final plat for the subdivision known as "Diamond Village" conforms to all the terms and conditions of the preliminary plat approval granted by the City of Black Diamond Hearing Examiner, approved December 1, 2011.

2. The final plat meets the requirements of the state laws and the Black Diamond Municipal Code that was in effect at the time of Preliminary Plat application.

3. All required plat improvements have either been constructed in compliance with approved plans or have been financially secured with the bond, as specified by the Public Works Director.

4. The final plat has been processed and reviewed in material compliance with all applicable state and local procedural requirements.

5. The final plat is in conformance with all applicable zoning and other land use controls.

6. The final plat is supported by all applicable owner, staff and agency approvals, attestations, certifications and/or recommendations as required by state and local regulations.

Section 2. Final Plat Approval. Based upon the above findings, the City Council of Black Diamond hereby **APPROVES** the final plat of the Diamond Ridge subdivision (PLN15-044) and authorizes and directs staff and the Mayor to inscribe and execute the Council's written approval on the face of the plat. The original of the final plat shall be filed for record by the City with the King County Department of Records and Elections. One reproducible copy shall be furnished to the City Public Works Department. One paper copy shall be filed with the County assessor.

Section 3. Severability. If any section, sentence, clause or phrase of this resolution should be 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 section, sentence, clause or phrase of this resolution.

Section 4. Effective Date. This resolution shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS ____ DAY OF ____, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CITY OF BLACK DIAMOND STAFF REPORT ON
DIAMOND RIDGE SUBDIVISION FINAL PLAT (File Number PLN15-0044)**

Date: March 29, 2016

Name of Subdivision: Diamond Ridge Subdivision

Number of Lots: Ten (10)

Location: 32322 5th Ave, Black Diamond, WA within the NE ¼ of Section 14, Township 21 North, Range 6 East, Willamette Meridian, King County, WA

Parcel Numbers: 1421069167, 1421069168 and 1421069169

Zoning: R4, Single Family Residential

Comprehensive Plan: Low Density Residential

Land Owner(s): Shake n Bake, LLC

Name of Applicant (s): Laura Petkov

Preliminary Plat Approval: The Black Diamond Hearing Examiner granted preliminary approval subject to thirteen (13) conditions on December 1, 2011

Final Plat Application: Application received on October 5, 2015
Response to Applicant requesting information on October 14, 2015
Application deemed complete on January 6, 2016

I. SUMMARY OF REQUEST

The request by Shake and Bake, LLC is to subdivide 2.85 acres of land into 10 single family residential lots ranging from 9,605 to 20,666 square feet in size with two set aside tracts for (1) stormwater and (2) access and utilities. Access is provided off of 5th Ave and constructed as a private road. The project also includes off-site street and utility improvements necessary to serve the plat. The property is located at 32322 5th Ave, Black Diamond within the NE ¼ of Section 14, Township 21 North, Range 6 East, Willamette Meridian, King County, WA. The underlying zone district is R4, Single Family Residential and the standards in the Black Diamond Municipal Code regulate the land uses for this property.

II. PROCOCESS

The applicant is required to receive preliminary plat approval prior to submittal and approval of a final plat. The Diamond Ridge subdivision preliminary plat application received preliminary plat approval from the Black Diamond Hearing Examiner on December 1, 2011 subject to thirteen (13) conditions. The City received final plat submittal on October 5, 2015. The final plat was reviewed by staff for conformance with preliminary plat approval conditions and all applicable laws and regulations. In this report, City staff is submitting written findings and a recommendation to the City Council for final plat approval.

Based on staff's report, City Council determines that the final plat conforms to terms of the preliminary plat and applicable laws and regulations and enters written findings to that effect to authorize the mayor to execute the city's written approval on the face of the plat (RCW 58.17.170). Final plat approval is a Type 6-City Council Decision (BDMC 18.08.030). The code defines Type 6 decisions as, quasi-judicial or other decisions, not necessarily requiring the filing of a project permit application that are made by the city council following a recommendation by staff (BDMC 18.08.090). Noticing requirements for final plat approval for Type 6 decisions include posting the affected property and placing a notice on the City's webpage (BDMC 18.08.125). A notice was placed on the City's webpage on March 30, 2016 and the property was posted on March 22, 2016.

III. PROJECT ANALYSIS

The proposed subdivision is determined by the staff to meet the criteria established in the Black Diamond zoning and subdivision ordinances, the Black Diamond Comprehensive Plan and to be compliant with all requirements and conditions of preliminary plat approval. The legal requirements as well as the hearing examiner's conditions are set forth below, together with staff's recommended findings on each.

RCW 58.17.170: "When the legislative body of the city, town or county finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of [chapter 58.17 RCW], other applicable state laws and any local ordinances which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat."

A. Conformance with the City of Black Diamond Zoning Ordinance (BDMC Chapter 18).

The zoning designation of the properties is R4 Single Family Residential which allows single family detached structures on individual lots per BDMC 18.30.020.A.1. The minimum lot area required is 9,600 square feet per BDMC 18.30.040.A.1.a. The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. The minimum lot width is 60 feet and depth is 80 feet per BDMC 18.30.040.A.3&4. Noticing requirements include posting the affected property and placing a notice on the City's webpage per BDMC 18.08.125.

Compliance statement: Staff finds the proposed subdivision satisfies all of the aforementioned zoning and land use criteria. The 2.85 acre subject property is being subdivided into 10 Single Family Residential lots. Lot sizes range from 9,605-20,666 square feet. All lots conform to minimum dimensional standards and meet required setbacks. Noticing requirements have been met. The gross density of the subdivision is 3.51 dwelling units per acre (du/ac) and net density is 4.31 du/ac. Maximum density in the R4 zone is 4 du/ac (BDMC 18.30.040.A.2.a). The Zoning Code does not indicate whether gross or net density is to be used. However, the Comprehensive Plan establishes a maximum density based on dwelling units per gross acre (page 5-14). The plat density is less than the allowable maximum density for the R4 zone.

B. Conformance with the City of Black Diamond Subdivision Ordinance (BDMC Chapter 17) and Hearing Examiners' conditions of approval.

The applicant submitted a preliminary plat application in conformance with BDMC 17.12, File Number PLN11-0003. A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued on April 15, 2011, File Number PLN11-0004. The Preliminary Plat was approved on December 1, 2011 by the City of Black Diamond Hearing Examiner with thirteen (13) conditions of approval. The applicant submitted a final plat application in conformance with BDMC 17.20, File Number PLN15-0044. The City's standards procedures for public notifications were met pursuant to BDMC Chapter 18.08.

Compliance statement: Staff finds the proposed subdivision conforms to the City's subdivision regulation.

C. Compliance with Hearing Examiner's conditions of approval.

Hearing Examiner Condition No. 1: "The applicant shall follow the recommendations of the Geotechnical Report prepared by Terra Associates (dated November 23, 2009) as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design and Construction Standards."

The applicant did apply the recommendations of the Geotechnical Report prepared by Terra Associates, dated November 23, 2009 as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design & Construction Standards as follows.

- a. Appropriate erosion and sediment controls were addressed in civil drawings, permitting and ongoing through construction. The site is permitted through the Department of Ecology NPDES program.
- b. Public Works verified that soils for road construction were excavated to unyielding level.
- c. A structural engineer was required to design the storm pond wall.

d. Stormwater management has been achieved through professional engineering, civil design and construction of the approved stormwater system that provides detention and release according to the City's adopted stormwater regulations. .

e. Civil plans provided for free and positive surface water drainage by routing off-site water around home sites with a drainage swale at the south plat boundary to control general runoff. All other runoff is piped through the storm water facility.

f. Roadway pavement construction exceeds 2" of asphalt over 4" of gravel as recommended in the Geotechnical Report.

Hearing Examiner condition No. 2: "The applicant shall reconstruct and widen 5th Ave. to a City asphalt design structure section of 24 feet to meet the City standard for 5th Ave. from the project site to the intersection with Baker Street. Pursuant to Finding of Ex. 8, 22' rather than 24' shall be required."

The applicant did reconstruct and widen 5th Avenue to 22' from the project site to the intersection with Baker Street.

a. The road was regraded with base added to provide a structurally sound 22' wide road section from the project site to Baker. An additional 2" lift of asphalt, utility lid adjustments, and driveway connections remain to be completed and has been bonded for. The bond requires this additional work be installed on or before August 30, 2016 unless an extension is granted by the City.

Hearing Examiner condition No. 3: "Both the stormwater (Tract Y) and private road utilities (Tract X) tracts shall be private."

The final plat map shows stormwater tract (Tract Y) and the road/utilities tract (Tract X) as private.

Hearing Examiner condition No. 4: "Prior to final plat approval, the applicant shall submit Covenants, Conditions and Restrictions (CCR's) for staff review and approval. These CCRs shall provide for establishment of a Homeowners' Association to ensure adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility."

The applicant did submit Covenants, Conditions, and Restrictions (CC&Rs) for staff review and approval. These CC&Rs provide for establishment of a Homeowners' Association that ensures adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility.

"Hearing Examiner condition No. 5: "Complete civil drawings of the on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, shall be submitted for review and approval prior to issuance of construction permit

for required plat improvements. All of the supporting infrastructure must be constructed, functional, and substantially complete and guarantee bonds provided before application can be made for final plat. Prior to final plat approval the City staff shall also have the Applicant demonstrate to its satisfaction, if not already done so, that the City's stormwater facilities to which the Applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. The City shall require the applicant to mitigate any deficiencies."

The applicant did submit complete civil drawings of on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, for review and approval prior to issuance of a construction permit for required plat improvements.

Supporting infrastructure has been constructed so that it is functional and substantially complete. A Private Project Development Performance bond has been provided to the City to financially guarantee the completion of all remaining required improvements as allowed under BDMC Chapter 17.20.050.

a. Off-site and on-site sets of civil drawings of the roadway and utility improvements were submitted, reviewed, approved, and permitted by the Public Works Director.

b. Streets are paved and applicant has bonded for the final lift of asphalt which will occur as weather permits.

c. Sewer mains and sewer stubs to each lot have been installed, tested and are acceptable for use.

d. Water mains providing service to the plat have been looped, tested, purified, tested for purity, connected to the public water system and are available for public water service to each lot.

e. A fire hydrant has been installed to provide fire protection for the homes within the plat.

f. The stormwater collection system has been installed and is available for single family home connection and the off-site storm water that passes through the plat has been routed around home sites.

g. The applicant will need to reconstruct a swale to ensure that offsite stormwater flows are adequately routed through the plat. This item is covered in the performance bond.

The applicant has demonstrated to the satisfaction of the City that the stormwater facilities to which the applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. No downstream conveyance issues were identified and the stormwater retention pond will reduce the peak winter storm runoff from the predeveloped condition as required under the City's adopted stormwater regulations. The applicant is required to provide the City with a Maintenance and Operations Bond to ensure successful operation of improvements for two years after final approval.

Hearing Examiner's Condition No. 6: "A correct characterization of the existing drainage discharge to 32328 – 5th Ave shall be shown on future drawings related to this project.

The Applicant provided a correct characterization of the existing drainage discharge to 32328 5th Avenue on the plan sheets.

a. The development design routes all but a very small catchment area away from the adjacent property located at 32328 5th Avenue.

b. Improvements to the storm drainage connections to the onsite storm pond are required. This work is covered in the performance bond.

Hearing Examiner's Condition No. 7: "All easements shall be shown on the final plat."

All easements are shown on the final plat. These easements have been prepared to the City's satisfaction and are shown appropriately and referenced on the plat map.

Hearing Examiner's Condition No. 8: "The private road turnaround shall be marked as a fire lane with signage as required in Appendix D of the 2009 ed. IFC."

Specific signage requirements and installation locations have been relayed to the applicant and work is covered under the performance bond.

Hearing Examiner's Condition No. 9: "Grade of the private road shall not exceed 15%."

The grade of the private road does not exceed 15%.

Hearing Examiner's Condition No. 10: "At the time of building permit, homes shall have required fire flow available of shall have a fire sprinkler system installed to allow for a reduction in required fire flow."

All home sites have required fire flow available. The applicant installed a new water main loop and extensions including residential water service and fire hydrant protection to provide adequate public water service.

Hearing Examiner's condition No. 11: "During the civil design phase, the applicant shall submit a professionally prepared planting plan for review and approval by the City, including location, species, and size of 15 new trees to be planted. Per BDMC 19.30.070.C, replacement trees shall meet the following criteria: 2. New trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock; 3. New trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements; 4. New trees must be located away from areas where damage is likely; 5. Deciduous replacement trees shall be a minimum of three inches in caliper (dbh), evergreen

trees must be a minimum of twelve feet in height; and 6. Trees shall be watered as necessary to ensure survival and growth during their first two growing seasons after planting.

The applicant did submit a professionally prepared planting plan which was approved by the City during the civil design phase. The location, species and size of plantings are in conformance with the City's Tree Preservation Ordinance, BDMC 19.30. Landscaping and tree planting is covered under the performance bond. .

Hearing Examiner's condition No. 12: "Tree removal associated with home construction on individual lots within the plat shall be reviewed at the time of building permit application and subject to the tree preservation code in effect at that time."

Tree removal associated with home construction on individual lots within the plat will be reviewed at the time of building permit application subject to the tree preservation code in effect at that time. A tree removal permit will be required pursuant to BDMC 19.30.060.

Hearing Examiner's condition No 13: "A lot line adjustment (LLA) application shall be submitted to the City for review and approval for property to be deeded from tax parcel no. 1421069167 to tax parcel no. 1421069053. The LLA must be approved and recorded prior to final plat application."

A Lot Line Adjustment (LLA) was approved on December 3, 2015 (PLN15-0043). It has been recorded with the King County recorder's office pursuant to BDMC 17.36.060. The recording number is appropriately referenced on the final plat map.

Compliance statement: staff finds the proposed subdivision complies with all of the Hearing Examiner's conditions of approval.

C. Conformance with the Comprehensive Plan

The Comprehensive Plan designation of the properties is Low Density Residential (LDR). Section 5.6.3 of the Black Diamond Comprehensive Plan (June 2009) contains the following residential policies:

- *Policy LU-16: Encourage a variety of housing types, providing housing for all income levels and all family sizes.*
- *Policy LU-17: New housing should be compatible with the existing development pattern and the small-town atmosphere – a mix of small and large lots, size and scale.*
- *Policy LU-18: Require residential development patterns to allow for efficient provision of public services and utilities.*

Compliance statement: staff finds proposed subdivision is in conformance with the Comprehensive Plan. The development proposes 10 single family residential lots ranging in size

form 9.605-20,666 square feet which are compatible with the existing development pattern. Density in the LDR designation allows for 4 dwelling units per gross acre. The subdivision results in 3.51 dwelling units per gross acre.

D. Conformance with the City of Black Diamond Engineering Requirements.

The City's Public Works Director has reviewed the civil design, construction drawings and final plat application with the purpose to promote the public health, safety and welfare in accordance with the standards established by the state and the City to provide and promote safe, convenient vehicle and pedestrian access on public and private streets, to facilitate the adequate provision of public water and sewer service and for the proper handling of stormwater.

a. Street and Access: the public and private streets have been adequately improved and bonded for to provide safe and convenient access and travel for pedestrians and vehicles.

b. Sewage disposal: The sewer main extensions and the existing City collection system with the regional conveyance and treatment capacity through King County Wastewater Treatment Division will provide adequate public sewerage service. This project meets concurrency with the requirements of the sanitary sewer serving the subdivision.

c. Water service and fire flow: The new water main loop, water main extensions and fire hydrant protection provide adequate potable water and fire flow and are therefore concurrent with the requirements of the fire district and public water serving the subdivision.

d. Stormwater: The applicant has provided stormwater detention and stormwater quality treatment and safely routed offsite stormwater drainage to downstream conveyances to provide adequate stormwater quality and quantity discharge with adequate conveyance infrastructure.

e. Survey: The final plat is a true and accurate map that correctly shows certifications, dedications, easements, plat provisions, lot boundaries and dimensions consistent with the RCW 58.09, RCW 58.17, and the City's subdivision ordinance (BDMC Title 17).

Compliance statement: The Public Works Director finds the utilities and transportation systems have sufficient capacity to serve this subdivision. Further, the Diamond Ridge Final Plat meets state and City standards in promoting the public health, safety and welfare.

IV. Staff Recommendation:

Based on the information and materials provided in the staff report, the City of Black Diamond staff has determined that the final plat meets all of the applicable requirements for final plat approval. The applicant has substantially completed required improvements and submitted a bond for final completion of all outstanding improvements to be completed on or before August 30, 2016. Therefore, the City staff recommends the City Council adopt the findings in this report and **APPROVE** the Diamond Ridge Subdivision Final Plat, File No. PLN15-0043, subject to the completion of all items listed in the performance bond, to be performed on or before August 30, 2016.

March 29, 2016
Diamond Ridge Subdivision Staff Report
City File Number PLN15-0044

Submitted on April 7, 2016 by:

Barbara Kincaid
Community Development Director

Seth Boettcher
Public Works Director

ATTACHMENTS TO THE REPORT:

Diamond Ridge Preliminary Plat (PLN11-0003) Findings, Conclusions, and Decision
Application
Plat map
CC&Rs
Private Project Development Performance Bond

Cc: case file
Applicant

DEC 05 2011

REMOVED

BEFORE THE HEARING EXAMINER FOR THE CITY OF BLACK DIAMOND

Phil Olbrechts, Hearing Examiner

RE: Diamond Ridge Preliminary Plat PLN11-0003	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION
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INTRODUCTION

The Applicant requests approval of a preliminary plat to subdivide 2.85 acres into 10 single family lots. The preliminary plat is approved subject to conditions.

ORAL TESTIMONY

Stacey Borland, associate planner for the City of Black Diamond, summarized the proposal. In response to questions from the Examiner, she clarified that only one of the proposed lots is already developed and that the home depicted along 5th Avenue is not part of the plat. She noted that all conditions recommended by the fire department other than mitigation fees had been incorporated into the staff recommended conditions of approval and that the fire department had found that as conditioned the proposal adequately addresses fire safety issues.

Steve Boettcher, Public Works Director, testified that 5th Avenue is currently fifteen feet wide and that the Applicant will widen 5th Avenue all the way to Baker Street.

Kelly Kahne, applicant, testified that he enjoyed working with Black Diamond staff, that he has worked with staff in other jurisdictions and that Black Diamond staff was the best.

Karen Watling, neighbor to the south, testified that she thought it was a great project but she had concerns about Baker Street. She noted that Baker Street goes past 5th on to St. Barbara's church, that Baker is also narrow as it goes to the church and that it needs to be widened there as well. She feels that Baker Street east of the project should be widened all the way to Lawson.

Steve Boettcher noted that the section of Baker referred to by Ms. Watling is south and east of the project. The primary access route would be to get to SR 169 and south on 5th. There would only be a small amount of traffic going to or coming from the road section mentioned by Ms. Watling. He didn't find any improvements necessary for such a small amount of traffic.

Mr. Kahne noted that any traffic on the road section identified by Ms. Watling would come from the church, not his project.

Ms. Watling noted that the intersection of SR 169 and Baker is very narrow and treacherous (overgrown trees) and cars cut the corner to access Baker from SR 169. Depending on the time of day, some residents go all the way down 5th avenue, turn right on Lawson and then turn on SR 169. The intersection isn't always used.

EXHIBITS

All exhibits identified at page 10 of the November 4, 2011 staff report were admitted into the record during the hearing. The following additional exhibits were also admitted during the hearing:

- Ex. 16: Aerial photograph of project site.
Ex. 17: November 8, 2011 letter from Janice Ranton

FINDINGS OF FACT

Procedural:

1. Applicant. Kahne Holdings, Inc.
2. Hearing. The Hearing Examiner conducted a hearing on the application at 5:30 p.m. at the Black Diamond City Council Meeting Chambers on November 14, 2011. The record was left open for staff to provide its position on conflicting City regulations governing appeal of the Examiner's decision. Staff responded by email on November 23, 2011 and the record was closed on that date.

Substantive:

3. Site/Proposal Description. The Applicant proposes to subdivide a 2.85 acres into ten lots, in the R4 Single Family Residential zone district. Proposed single family lots range from 9,605-20,666 square feet in size. Two tracts are proposed: 1) stormwater; and 2) access and utilities. Access is proposed to be provided off of 5th Ave and internal access will be constructed as a private road (identified as Tract X on the preliminary plat map, Ex. 1). The project includes off-site street and utility improvements in order to serve the plat and associated site preparation and grading. An existing single family residence and shop will remain on site.
4. Characteristics of the Area. The area is developed with single family housing at a density similar to that proposed.
5. Adverse Impacts. No significant adverse impacts are associated with the proposal. The project has undergone SEPA review and was issued a mitigated determination of nonsignificance. There are no critical areas on site except for potentially a mine hazard area. A geotechnical report submitted by the Applicant conducted a detailed investigation of coal mine maps and concluded that "*no mining took place beneath or immediately adjacent to the site. We did not identify any subsurface mine workings that would impact the development of the site.*" Ex. 9, 11/23/09 letter from Terra Associates, Inc. The removal of trees is mitigated under the

City's tree preservation regulations, Chapter 19.30 BCMC, which regulates tree removal at both the preliminary plat and the building permit stages of development. Infrastructure impacts are addressed separately in Finding of Fact No. 6 below. In regards to infrastructure impacts, a couple neighbors expressed concerns about existing deficiencies in roads and drainage. It is important to note that the City cannot legally require the Applicant to fix existing infrastructure deficiencies. The City can only make the Applicant fix problems that it creates. As discussed below, the project as proposed and conditioned mitigates all impacts generated by the project.

6. Adequacy of Infrastructure and Public Services. The staff report states that all utilities have the capacity to serve the proposal and there is no evidence presented to the contrary. As mitigated by staff, adequate infrastructure will serve development as follows:

- Drainage: In a couple letters, Janice Ranton expressed concern about stormwater impacts, questioning whether existing stormwater lines along 5th Avenue could handle increased flows and asserting that water running off the property causes chuckholes, apparently on 5th Avenue and Baker Street. *See* Ex. 5 and 17. As discussed below, the project as conditioned in conjunction with the City's stormwater regulations will ensure that the proposal will not increase off-site flows onto adjoining properties and that off-site drainage facilities are adequate to handle any increased flows caused by the project.

As previously noted, the City is tasked with ensuring that the project doesn't exacerbate stormwater impacts. The City cannot require that the Applicant correct existing deficiencies. The City's regulations will ensure that the project will not create any increase in off-site flows to adjoining properties, including City streets. BDMC 14.04.020(A) adopts the 2005 Edition of the Department of Ecology's Stormwater Management Manual for Western Washington. The conditions of approval for this proposal require the Applicant to complete or bond all stormwater improvements required by the Manual prior to final plat approval. The Manual requires both no net increase in off-site stormwater run-off and also requires the preservation of off-site natural drainage systems. The technical report, Ex. 9, contains a preliminary analysis of stormwater generated by the introduction of impervious surfaces. The technical report proposes an on-site detention system and piping. Staff concluded in the staff report that the proposed drainage tract is large enough to accommodate the detention facilities necessary to comply with the Manual's stormwater requirements. In sum, the Manual mandates a stormwater system that will not increase adverse off-site drainage impacts.

As to the adequacy of off-site stormwater facilities, the technical report states that the City's conveyance system will be extended up 5th Avenue to connect to the subdivisions stormwater system. The technical report concludes that the proposal "will not create a significant impact to the downstream system". The technical report does not provide any information as to how this conclusion was reached by the Applicant's consultant. Staff has probably already done so, but to be certain the conditions of approval will require that staff verify with the Applicant that the basis for this conclusion is sound and that the Applicant correct any deficiencies.

As to drainage issues in general, the staff report notes that the Public Works Director found that the proposed subdivision with properly designed storm water facilities should be able to adequately mitigate the risks of flood or inundation conditions on or off-site. The expertise of the Public Works Director prevails on this issue and it is found that the proposal as conditioned that stormwater facilities required of the project will adequately mitigate the risks of flood or inundation conditions on or off the site.

- Transportation: Transportation was a concern cited by both Ms. Ranton and Ms. Watling. There is no question that 5th Avenue has existing deficiencies. As asserted by Ms. Ranton in her letters, it is too narrow and not wide enough for two cars to pass each other. This was confirmed by the Examiner's site visit as he disclosed during the hearing. Mr. Boettcher testified that 5th Avenue is only fifteen feet wide. The conditions of approval, as recommended by staff, include a requirement that the Applicant widen 5th Avenue to 22 feet from the project access point to Baker Street. Mr. Boettcher testified that this would be sufficiently wide to accommodate vehicles passing in opposite directions. As determined by Mr. Boettcher in his deviation approval, Ex. 8, the 22 foot width is sufficient to accommodate the traffic generated by the project and provide for safe fire access. As noted in Ex. 8, fire access standards only require a minimum of 20 feet and the City has adopted roadway standards less than 20 feet for some parts of the City. No evidence was presented that the 22 feet width would be insufficient to handle traffic generated by the proposal and no public concerns were raised by the sufficiency of this mitigation. Given these circumstances and the expertise of Mr. Boettcher as a public works director, the road widening of 5th Avenue required from the proposal to Baker Street is found adequate to mitigate the increased traffic generated by the project.

Ms. Watling testified that Baker Street from Fifth Avenue to Lawson Street was also too narrow and that "depending on the time of day" residents of the project area travel this route to SR 169 to avoid the intersection of SR 169 and Baker when it is subject to a large number of turning movements. Mr. Boettcher testified that the traffic generated by the project along the route identified by Ms. Watling was too insignificant to justify any road improvements in that area because almost all traffic would access SR 169 through the intersection of Baker Street and SR 169. The government has the burden of proof in establishing both that a project creates a need for mitigation and that the required mitigation is proportional to that need. *See Burton v. Clark County*, 91 Wn. App. 505, 516-17 (1998) (government has the burden of proof in establishing nexus/proportionality for development exactions). In this case there is no traffic study or any expert opinion that supports a finding that the proposal necessitates the widening of the street section identified by Ms. Watling. In fact, Mr. Boettcher's expert opinion concludes the opposite, that no widening is needed. Mr. Boettcher's opinion prevails under these circumstances and it is determined that the no widening is necessary to provide adequate access.

Ms. Ranton may also have raised issues with the adequacy of Baker between 5th and SR 169 and/or Lawson Street. In Ex. 17, Ms. Ranton notes that "[p]eople will

enter 5th Ave off of Lawson St. and Baker St. These roads are not wide enough for two cars to pass now.” From this statement is unclear what roads Ms. Ranton finds too narrow. It probably isn’t all the streets she mentions, since Lawson Street, as seen from the Examiner’s site visit, is divided into two lanes of traffic and easily accommodates traffic in both directions. Ms. Ranton’s comment is the only evidence in the record suggesting that there may be a problem with Baker Street between SR 169 and 5th Avenue. The Examiner’s site visit confirms that Fifth Avenue is not wide enough for two way traffic between Baker Street and Lawson Street. However, Mr. Boettcher concluded that most project traffic would exit the project to SR 169 through its intersection with Baker Street and he also concluded that no widening of Baker Street should be required of the Applicant for Baker Street. Given Mr. Boettcher’s expertise and the burden on the City to establish the need for any improvements, it is found that the improvements required for the project provide for adequate access based upon the premise that most project traffic will access SR 169 through its intersection with Baker Street.

- Parks and Open Space: The project provides for adequate parks and open space to the extent that can reasonably be required for a project of this scale. No park mitigation is directly required by City regulations and no open space has been required for the project beyond the stormwater Tract Y. As with road improvements, the City can only require parks and open space if it can prove by a preponderance of evidence that the open space is necessitated by the project. *See, Isla Verde Intern. Holdings, Inc. v. Camas*, 99 Wn. App. 127 (1999). The adequacy of parks and open space will be assessed with this standard of proof in mind.

The Black Diamond Comprehensive Plan provides some of the evidentiary foundation required by cases such as *Isla Verde* to assess and mitigate park needs. The Comprehensive Plan adopts level of service standards for parks and open space and Section 8.5.4 of the Plan notes that the City does not meet those standards. Section 8.5.4 specifically identifies a deficiency in neighborhood parks in the vicinity of SR 169. The Comprehensive Plan acknowledges that its capital facilities plan will not remedy the deficiency in neighborhood parks and that “[t]he City will need to ensure neighborhood parks and trails are developed concurrently as new residential development occurs to meet the established LOS standards.” This Plan puts the City in a good position to require park mitigation from the Applicant, but the staff report only notes that no park mitigation is required for the project. However, from a practical standpoint the project is too small for the City to require any meaningful mitigation for a neighborhood park. As noted in the *Burton* case, any mitigation required by the City would have to be proportional to the impacts of the development. Under this limitation, the City could not require the Applicant to provide for an entire neighborhood park. The City could also probably not require any mitigation fees, because those fees would have to be expended within five years of collection under RCW 82.02.020 and it is unlikely that there will be enough other development in the vicinity to collect enough fees to purchase and/or improve a neighborhood park to serve the development. Given that due process constraints limit a review of adequacy to what can reasonably be required

of the Applicant, it must be found that the proposal makes adequate provision for parks.

As to open space, Table 8-3 of the Comprehensive Plan adopts a level of service standard of 10% of the City's land area. The comprehensive plan concludes in Section 8.5.4 that this standard will be satisfied, apparently through the development of the Lawson Hills and Villages master plan developments, *see* Comprehensive Plan, p. 8-17. Evidently, the Comprehensive Plan assesses open space needs on a City-wide basis and no City policies or regulations assign any need for or require any open space of any specific subdivision proposal. Given these circumstances, the proposal is found to adequately address open space.

- Water: Water infrastructure is adequate. The Public Works Director found that the general plan and layout for the water system connection and extension will provide adequate pressure, looping, fire flow and proper extension of service across the developed property and meets City standards. With the connections and water main layout proposed, more than 1000 gallons per minute (gpm) will be provided to the fire hydrants in the plat.

- Sewer: The proposal adequately addresses sewer infrastructure/service. The Public Works Director found that the proposed general plan and layout for sewer service to the proposed subdivision is adequate.

- Schools: The proposal adequately addresses the additional demand it places upon schools. As noted in the staff report, the Enumclaw School District (which presumably serves the project site) was provided notice of the SEPA MDNS for the proposal and did not submit any comment or appeal. The Comprehensive Plan notes that elementary school facilities are over capacity and that there is no room for expansion. However, there is nothing in the record to support the imposition of mitigation fees or off-site exactions for reasons similar to those identified in the parks analysis above. With these constraints it must be found that there are adequate school facilities to serve the proposal.

- Sidewalks to and from School. The proposal adequately provides for safe walking conditions to and from school. The staff report does not indicate if students actually would walk to and from school from the project site, but it's analysis implies that is the case. The proposed subdivision will contain a 22' wide private access road with turnaround. The width is enough to accommodate vehicles and pedestrians safely. The applicant will also be improving the existing substandard 5th Ave to mitigate the impact of the additional use and traffic on 5th Ave. Although sidewalks are not proposed for either roadway, these measures will improve walking conditions for students who walk to and from school. Both 5th Avenue and Baker Street are very low traffic and low speed streets providing reasonable safe walking for pedestrians. Once a pedestrian reaches 3rd Ave (SR-169), sidewalks are available and there are marked crosswalks which provide safe crossing to the school.

• **Fire Protection:** The proposal adequately provides for fire protection. King County Fire District 44 serves the project site. The Fire District has reviewed the proposal and recommended several conditions, all of which have been incorporated into the project approval except for fire mitigation fees. In Ex. 11 the Fire District requests voluntary mitigation fees amounting to \$1,783.13 per dwelling unit. There is no documentation or other evidence in the record to support these fees. As correctly noted by the Fire District, they are requesting “voluntary” mitigation fees, a reference to fees authorized by RCW 82.02.020. However, RCW 82.02.020 requires that these “voluntary” mitigation fees “are reasonably necessary as a direct result of the proposed development”. The burden to prove that a condition (including mitigation fees) is reasonably necessary as a direct result of a proposed development is on the governmental entity imposing the requirement. *Citizens’ Alliance for Property Rights v. Sims*, 145 Wash. App. 649, 656 (2008). The Fire District has only provided the amount of mitigation fee it is requesting without any documentation showing what the fee will be used for or how it was formulated. The Fire District has provided no information as to how this fee is reasonably necessary to mitigate the impacts of the development. The District has not met its burden of proof in justifying the fee and it cannot be imposed as a condition of approval.

CONCLUSIONS OF LAW

Procedural:

1. **Authority of Hearing Examiner:** BDMC 18.08.030 provides that preliminary plat applications are classified as Type 3 applications. BDMC 18.08.060 provides that the Hearing Examiner shall make final decisions on preliminary plat applications after holding an open record hearing.

Substantive:

2. **Zoning Designation:** R4, Single Family Residential

3. **Review Criteria and Application.** BDMC 17.15.020 governs the criteria for preliminary plat approval. Those criteria are quoted in italics below and applied to the application under corresponding Conclusions of Law.

BDMC 17.15.020(A)(1): *The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, and with the Black Diamond design standards and guidelines where applicable;*

4. The zoning designation of the properties is R4 Single Family Residential which allows single family detached structures on individual lots per Black Diamond Municipal Code (BDMC) 18.30.020.A.1. The minimum lot area required is 9600 square feet per BDMC 18.30.040.A.1.a.

The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. The minimum lot width is 60 feet and depth is 80 feet per BDMC 18.30.040.A.3 & 4. The proposed subdivision satisfies all the aforementioned zoning criteria.

The Comprehensive Plan designation of the properties is Low Density Residential. Section 5.6.3 of the Black Diamond Comprehensive Plan (June 2009) contains the following residential policies:

Policy LU-16: Encourage a variety of housing types, providing housing for all income levels and all family sizes.

Policy LU-17: New housing should be compatible with the existing development pattern and the small-town atmosphere—a mix of small and large lots, size and scale.

Policy LU-18: Require residential development patterns to allow for efficient provision of public services and utilities.

The development proposal contains a range of lot sizes (9,605-20,666 square feet) which are compatible with the existing development pattern. The proposal involves development of a site which already contains a single family dwelling and is surrounded by developed properties, which allows for the efficient provision of public services and utilities.

The City of Black Diamond Design Guidelines apply to the following areas: MPD Framework Design Standards & Guidelines, Residential Uses in the Historic Village Core, Multi-Family Development, Business Park / Industrial Areas, Commercial Zones, and The Historic Town Center. There are no design standards and guidelines that apply to this proposed subdivision.

BDMC 17.15.020(A)(2): The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, and is greater than or equal to any applicable minimum density requirement;

5. Sheet 1 of the preliminary plat (Exhibit 1a) contains a section entitled “Gross and Net Density Calculations” which denotes a gross density of 3.51 dwelling units per acre (du/ac) and a net density of 4.31 du/ac for the project. The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. There is no minimum density requirement in BDMC 18.30.040. The Zoning Code does not indicate whether density is to be measured by gross or net acres. However, the Comprehensive Plan establishes the maximum density for Low Density Residential areas based upon dwelling units per gross acre, not net acre (page 5-14). Therefore, the plat density is less than the allowable maximum density for the R4 zone.

BDMC 17.15.020(A)(3): The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;

6. As determined in Finding of Fact No. 6, the subdivision provides for adequate infrastructure as contemplated in the standard quoted above. As is evident in Finding of Fact No. 6, there is somewhat of a conflict between judicial and statutory requirements that place the burden of proof on the City to support conditions of approval, while placing the burden on the Applicant to establish that adequate infrastructure supports the proposal. There are instances, such as for schools, where it can be argued that facilities are not adequate but at the same time the record does not support any mitigation that is legally defensible. Denial of an application under these circumstances would appear to be the correct response, but if projects are routinely denied for failing to mitigate impacts that they cannot be reasonably required to mitigate, the City would be faced with a potential takings challenge for creating a permanent de facto development moratorium. *Tahoe-Sierra Pres. Council v. Tahoe Reg'l Planning Agency*, 535 US 302 (2002). Due process and takings considerations dictate that adequacy be evaluated in a flexible manner when assessing adequacy in this context.

In this case there are legitimate issues over the adequacy of schools and parks and to a more limited extent roads and fire facilities. However, the project is of a very modest scale and only adds to infrastructure demand at a minor, incremental level. Further, beyond the master plan developments currently under consideration by the City there is no plethora of development that would lead to any immediate concerns over cumulative impacts. With these factors in mind it is appropriate to conclude that the proposal provides for adequate infrastructure as required by the criterion quoted above. Further, since the Findings of Fact also determine that there are no adverse impacts associated with the proposal, it is concluded that the public use and interest is served by the establishment of the subdivision that appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare.

BDMC 17.15.020(A)(4): *The physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site;*

7. As determined in Finding of Fact No. 6, the physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site.

BDMC 17.15.020(A)(5): *Applicable city development standards are met or exceeded;*

8. The proposed subdivision has been reviewed by staff for consistency with applicable portions of Title 17 (Divisions of Land), Title 18 (Zoning), and Title 19 (Environment). With the exception of the deviation described below, all other development standards are met or exceeded.

The Applicant submitted a construction deviation request for a road variance from the city standard of 24 feet of asphalt with thickened edge to 20 feet of asphalt with thickened edge on both 5th Ave and the internal access road for the plat. The Public Works Director approved the construction deviation (Exhibit 8) on August 30, 2011, for a 22' roadway on 5th Ave and the access road for the plat (Tract X).

BDMC 17.15.020(A)(6): *All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

9. A SEPA Mitigated Determination of Non-significance (Exhibit 6) was issued by the City on April 15, 2011 and all SEPA mitigation measures have been incorporated into the conditions of approval. Further, as found in Findings of Fact No. 5 and No. 6, there are no significant adverse impacts associated with the proposal.

BDMC 17.15.020(A)(7): *Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

10. The Applicant is required to construct utilities and access and connect to the City's systems prior to occupancy of any structures. All of the City's utilities have sufficient capacity to serve this subdivision and are in good standing with state regulatory agencies.

BDMC 17.15.020(A)(8): *If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;*

11. The proposal is not in an approved Master Planned Development.

BDMC 17.15.020(A)(9): *There shall be connectivity of motorized and nonmotorized transportation routes, open spaces and wildlife corridors with existing or proposed routes or corridors on adjacent properties;*

12. The proposal is surrounded by single family residential development and a church. Given the developed nature of surrounding properties, there is not an opportunity to connect to open space and there are no designated wildlife corridors in the area. The proposed subdivision will connect to the City's street system via a private road. There are no nonmotorized transportation routes in the immediate area available for connection.

BDMC 17.15.020(A)(10): *The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;*

13. Surrounding development did not leave adequate public access connection rights of ways to allow for road or trail looping to the subject property. A cul-de-sac is appropriate for the local surrounding conditions. The proposed streetscape will fit with the existing neighborhood and improve it without stark differences to the surroundings.

BDMC 17.15.020(A)(11): *Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

14. Two tracts are proposed, one for stormwater (Tract Y) and the other for access and utilities (Tract X). As proposed, both of these tracts will be kept private and there is no need to make them public (which would trigger maintenance responsibility for the City). Proposed water easements are shown on the proposed plat drawing in Lots 5, 9 and 10. All easements will be required to be shown on the final plat. The City has not adopted impact fees at this time.

BDMC 17.15.020(A)(12): *The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;*

15. No adjacent properties have been developed or are approved for development as an MPD.

BDMC 17.15.020(A)(13): *The proposed subdivision provides safe walking conditions for students who walk to and from school; and*

16. As determined in Finding of Fact No. 6, the proposal provides for safe walking conditions to and from school.

BDMC 17.15.020(A)(14). *The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.*

17. The conditions of approval require compliance with Chapter 19.30 BDMC.

DECISION

The proposed subdivision is approved with the conditions identified below. Revisions to the conditions recommended by staff are identified in underline/strikeout for ease of reference:

1. The applicant shall follow the recommendations of the Geotechnical Report prepared by Terra Associates (dated November 23, 2009) as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design & Construction Standards.
2. The applicant shall reconstruct and widen 5th Ave to a City asphalt design structure section of 24 feet to meet the City standard for 5th Ave from the project site to the intersection with Baker Street. Pursuant to Finding of Ex. 8, 22' rather than 24' shall be required.
3. Both the stormwater (Tract Y) and private road/utilities (Tract X) tracts shall be private.
4. Prior to final plat approval, the applicant shall submit Covenants, Conditions and Restrictions (CCRs) for staff review and approval. These CCRs shall provide for establishment of a Homeowners' Association to ensure adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility.
5. Complete civil drawings of the on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, shall be submitted for review and approval prior to issuance of construction permit for required plat improvements. All of the supporting infrastructure must be constructed, functional, substantially complete, and guarantee bonds provided before application can be made for final plat. Prior to final plat approval City staff shall also have the Applicant demonstrate to its satisfaction, if not already done so, that the City stormwater facilities to which the Applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. The City shall require the Applicant to mitigate any deficiencies.

6. A correct characterization of the existing drainage discharge to 32328 5th Ave shall be shown on future drawings related to this project.
7. All easements shall be shown on the final plat.
8. The private road turnaround shall be marked as a fire lane with signage as required in Appendix D of the 2009 ed. IFC
9. Grade of the private road shall not exceed 15%.
10. At the time of building permit, homes shall have required fire flow available or shall have a fire sprinkler system installed to allow for a reduction in required fire flow.
11. During the civil design phase, the applicant shall submit a professionally prepared planting plan for review and approval by the City, including location, species, and size of 15 new trees to be planted. Per BDMC 19.30.070.C, replacement trees shall meet the following criteria: 2. New trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock; 3. New trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements; 4. New trees must be located away from areas where damage is likely; 5. Deciduous replacement trees shall be a minimum of three inches in caliper (dbh), evergreen trees must be a minimum of twelve feet in height; and 6. Trees shall be watered as necessary to ensure survival and growth during their first two growing seasons after planting.
12. Tree removal associated with home construction on individual lots within the plat shall be reviewed at the time of building permit application and subject to the tree preservation code in effect at that time.
13. A Lot Line Adjustment (LLA) application shall be submitted to the City for review and approval for property to be deeded from tax parcel no. 1421069167 to tax parcel no. 1421069053. The LLA must be approved and recorded prior to final plat application.

Dated this 1st day of December, 2011.



Phil Olbrechts
Hearing Examiner
City of Black Diamond

Appeal Right and Valuation Notices

This land use decision is final and subject to appeal to superior court as governed by Chapter 36.70C RCW. Appeal deadlines are short and procedures strictly construed. Anyone wishing to file a judicial appeal of this decision should consult with an attorney to ensure that all procedural requirements are satisfied.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

RETURN TO:

STOKES LAWRENCE
Attention: Sean K. Griffee
1420 Fifth Avenue, Suite 3000
Seattle, Washington 989101-2393

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR DIAMOND RIDGE**

Reference No(s). of related documents:

Declarant: **PETKOV DEVELOPMENT SERVICES, INC.**

Abbreviated Legal Description: **Complete legal description is on Exhibit A to this document.**

Assessor's Tax Parcel ID No(s):

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, FOR DIAMOND RIDGE ("Declaration") is made this ____ day of _____, 2015, by Petkov Development Services, Inc., a Washington corporation, as the owner of approximately 2.85 acres of real property situated in King County, State of Washington, as such property is more particularly described in *Exhibit A*, attached hereto and incorporated herein by this reference.

**ARTICLE 1
BACKGROUND AND PURPOSE**

1.1 Declarant desires to develop the Diamond Ridge Plat ("*Diamond Ridge*") as a residential community on the Subject Property. Declarant also desires to establish certain covenants, conditions, restrictions, and easements designed to preserve and enhance the Subject Property's present and future value, amenities, and opportunities;

1.2 Declarant desires that the establishment of such covenants, in the process of subdividing the Subject Property, ensures each Lot is responsible for the maintenance of the private road and the private stormwater treatment and conveyance system.

1.3 This Declaration establishes for the private ownership of lots and the buildings constructed thereon, and for the establishment of the "Diamond Ridge Owners' Association" (the

“*Association*”), which will be authorized and obligated to enforce the covenants, conditions and restrictions set forth in this Declaration. Once established, the Association will be delegated and assigned the duties and powers of administering and enforcing these covenants, conditions and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

1.4 The Diamond Ridge Plat (On-Site Improvements) recorded at Auditor’s File No. _____ in the records of King County, Washington, configured the Subject Property into ten (10) lots that are numbered consecutively and two Tracts referred to as “*Tract X*” and “*Tract Y*”.

ARTICLE 2 DECLARATION

2.1 Declarant hereby covenants, agrees, and declares that all of the Subject Property, as defined herein, and the buildings and structures hereafter constructed thereon are and will be, held, sold, and conveyed subject to and burdened by the following covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of Diamond Ridge for the benefit of the Owners thereof, their heirs, successors, grantees, and assigns. All provisions of this Declaration shall be binding upon all parties having or acquiring any right, title, or interest in the Subject Property or any part thereof, and shall inure to the benefit of the Owners thereof and to the benefit of the Association and are intended to be and shall in all respects be regarded as covenants running with the land.

2.2 Once the Association is established, Declarant delegates and assigns to the Association the powers of (a) maintaining, administering and enforcing the covenants, conditions and restrictions set forth in this Declaration, and (b) collecting and disbursing the assessments and charges provided for in this Declaration.

ARTICLE 3 DEFINITIONS

3.1 “**Association**” means the Diamond Ridge Homeowners Association, a Washington nonprofit corporation, its successors and assigns.

3.2 “**Association Action**” means a written corporate action of the Association in the form of either a bylaw or resolution duly passed by either the Board or the Owners.

3.3 “**Board**” means the board of directors of the Association.

3.4 “**Common Areas**” means all easements and Tracts and any improvements thereon that are owned or maintained by the Association, for the benefit of the Lot Owners, and subjected to this Declaration by an appropriate recording. As of the date of this Declaration, the Common Areas consist of: storm water facilities consisting of drains, pipelines, ditches, and a detention pond, and an access road commonly known as SE Olympic Lane.

3.5 “**Common Expenses**” means the costs incurred by the Association to exercise any of the powers provided for in Chapter 64.38 RCW and this Declaration.

3.6 **“Declarant”** means Petkov Development Services, Inc., a Washington corporation and its respective successors and assigns. Nothing contained herein shall be deemed or construed by the Association or by any third person, to create the relationship of principal and agent, or a partnership, or a joint venture, or any association between or among any of the signatories hereto.

3.7 **“Declaration”** means this instrument, as the same may be supplemented or amended from time to time.

3.8 **“Development Period”** means that period of time beginning on the date of this Declaration and ending on the receipt by the Association of written notice from Declarant in which Declarant elects to terminate the Development Period; provided that, if not terminated sooner, the Development Period shall terminate one (1) year after the date on which Declarant has conveyed all Lots to Owners other than Declarant.

3.9 **“Development Rights”** means those rights of Declarant reserved in Section 4.2, Article 11, and elsewhere in this Declaration. Declarant may exercise any and all Development Rights at any time during the Development Period in Declarant’s sole discretion.

3.10 **“Governing Documents”** means and refer to this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association as any of the foregoing may be amended from time to time.

3.11 **“Lot”** means any legally segmented and alienable portion of the Subject Property created through subdivision or any other legal process for dividing land and subjected to this Declaration by an appropriate recording, with the exception of dedicated rights of way and Tracts designated on the Plat.

3.12 **“Map”** or **“Plat”** means and refer to The Diamond Ridge Plat (On-Site Improvements) recorded at Auditor’s File No. _____ in the records of King County, Washington.

3.13 **“Mortgage”** means any recorded mortgage or deed of trust encumbering one or more of the Lots. **“First Mortgage”** shall mean and refer to a Mortgage with priority over the other Mortgages. **“Mortgagee”** shall mean and refer to the holder or beneficiary of any Mortgage and shall not be limited to Institutional Mortgagees. As used herein, the term **“Institutional Mortgagee”** or **“Institutional Holder”** shall include banks, trust companies, insurance companies, mortgage companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, all corporations, and any agency of department of the United States Government or of any state or municipal government.

3.14 **“Owner”** means the record owner (whether one or more persons or entities) of a fee interest in any Lot, including the Declarant but excluding Mortgagees or other persons or entities having such interest merely as security for the performance of any obligation. Purchasers or

assignees under recorded real estate contracts shall be deemed Owners as against their respective sellers or assignors.

3.15 **“Subject Property”** means that certain real property which is legally described on **Exhibit A** attached hereto, and such additions thereto as may hereafter be brought within the terms and conditions hereof by an appropriate recording,

3.16 **“Reserve Account”** shall have the meaning set forth in Section 5.12 of this Declaration.

3.17 **“Reserve Component”** means a Common Area for which the cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

3.18 **“Reserve Study Professional”** means an independent person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study in accordance with Ch. 64.38 RCW.

3.20 **“Single Family”** means a single household that includes not more than four (4) adults who are legally unrelated.

3.21 **“Structure”** means any building, fence, wall, driveway, walkway, patio, garage, storage shed, carport, mailboxes, basketball hoop, play equipment, climbing apparatus, swimming pool, rockery, dog run or the like.

3.22 **“Tract”** means any legally segmented and alienable portion of the Subject Property created through subdivision or any other legal process for dividing land and subjected to this Declaration by an appropriate recording, with the exception of Lots and dedicated rights of way.

ARTICLE 4 THE DIAMOND RIDGE HOMEOWNERS ASSOCIATION

4.1 **Description of Association.** The Association is a nonprofit corporation organized and existing under the laws of the State of Washington charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as they may be amended from time to time; provided, however, that no Governing Documents of the Association other than this Declaration shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. The Association shall have a perpetual existence and may not be dissolved for forty years after the date upon which this Declaration is recorded. Upon dissolution or final winding up of the Association entity under the laws of the State of Washington, all of its assets remaining after payment to creditors will be distributed or sold, and the sales proceeds distributed, to the members of the Association entity in accordance with the Articles, Bylaws, and provisions of Chapter 24.03, RCW. The Owners are responsible for ensuring that the Association continues to be a functioning legal entity.

4.2 **Association Board.** In addition to any other Development Rights set forth in this Declaration, until termination of the Development Period, the Declarant hereby reserves for

itself, its successors or assigns, all of the rights, powers and functions of the Association, or the Board thereof, which shall be exercised and/or performed solely by the Declarant. Upon termination of the Development Period, a Board shall be elected from among the Owners, as provided in the Bylaws to manage the Association. The Board shall elect officers of the Association from among the Board members, which shall include a president who shall preside over the meetings of the Board and meetings of the Association.

4.3 **Votes Appurtenant to Lots.** Every Owner shall be a member of the Association and, except as provided in Section 4.4, shall be entitled to cast one (1) vote in the Association for each Lot owned. A vote shall be appurtenant to and held and owned in the same manner as the beneficial fee interest in the Lot to which it relates. A vote shall not be separated from ownership of the Lot to which it relates; provided, however, that when more than one entity holds the beneficial fee interest in any Lot, the vote therefore shall be cast as the Owners among themselves determine, but, except as provided in Section 4.4, in no event shall more than one vote be cast with respect to any Lot; and if the several Owners of a Lot are unable to agree as to the casting of their vote, such vote shall not be counted. If a Lot is further subdivided as provided in Section 7.1 hereof, the Owner of each additional Lot created shall be entitled to one vote in the Association for each Lot owned.

4.4 **Initial Number of Votes.** During the Development Period, each Lot owned by Declarant shall be entitled to fifteen (15) votes in the Association and each Lot owned by an Owner other than Declarant shall be entitled to one (1) vote. Upon expiration of the Development Period, the total number of votes in the Association shall be equal to the number of Lots subject to this Declaration and each Lot shall be entitled to one (1) vote.

4.5 **Owner's Compliance.** By acceptance of a deed to a Lot, recording of a real estate contract conveying title to a Lot, or any other means of acquisition of an ownership interest, the Owner thereof covenants and agrees, on behalf of himself and his heirs, successors, and assigns, to observe and comply with the terms of the Plat, this Declaration, the Governing Documents of the Association, and all rules and regulations duly promulgated pursuant to Association Action.

4.6 **Bylaws, Rules and Regulations.** The Board on behalf of the Association shall have the power to adopt, modify, and amend rules and regulations governing the use of the Subject Property, provided that such rules and regulations shall not be inconsistent with this Declaration. The rules and regulations shall apply uniformly to all Owners, except as specifically provided herein. The Board shall have the power to enforce the rules and regulations on behalf of the Association and may prescribe penalties for the violation of such rules and regulations, including but not limited to fines for noncompliance. Any such rules and regulations shall become effective thirty (30) days after promulgation and shall be mailed to all Owners prior to their effective date. A copy of the rules and regulations then in force shall be retained by the secretary of the Association. The Declarant, on behalf of the Board, may adopt the initial Bylaws and rules and regulations of the Association.

4.7 **Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege.

4.8 **Association Property.** The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property.

**ARTICLE 5
ASSOCIATION BUDGET, ASSESSMENTS, AND LIENS**

5.1 **Owner's Covenants to Pay Assessments.** By acquisition of any ownership interest in a Lot, the Owner thereof covenants and agrees thereby, on behalf of himself and his heirs, successors, and assigns, to pay the Association, in advance, all general and special assessments levied as provided herein. Notwithstanding the foregoing, the Declarant shall not be obligated to pay any assessments.

5.2 **Association Budget.** The Association shall prepare, or cause the preparation of, an operating and maintenance budget for the Association at least annually, in accordance with generally accepted accounting principles. The initial operating and maintenance budget shall include all of the activities and replacement reserves set forth in the Attached *Exhibit A*. The activities and replacement reserves set forth in Exhibit A represent the minimum allowable activities and replacement set-asides for reserves that may be budgeted by the Association (the "Minimum Allowable Reserves"), and such Minimum Allowable Reserves may not be reduced by the Association in future operating budgets. The Association shall set forth all sums required by the Association, as estimated by the Association, to meet its annual costs and expenses, including, but not limited to, all management and administration costs, operating and maintenance expenses of the Common Areas, and services furnished to or in connection with the Common Areas, including the amount of all taxes and assessments levied against, and the cost of liability, property and other insurance on, the Common Areas, and including charges for any services furnished by or to the Association; the cost of utilities and other services; and the cost of funding all reserves including the Minimum Allowable Reserves set forth in Exhibit A, as established by the Association. The funds required to meet the Association's annual expenses shall be raised from a general assessment against each Owner as provided hereafter. After adoption of the operating budget, the Association may revise the operating budget at any time and from time to time, in accordance with the procedures set forth in Section 5.2(a) below, as it deems necessary or advisable in order to take into account and defray additional costs and expenses of the Association.

(a) **Adoption of Budget.** Within thirty (30) days after adoption by the Board of any proposed regular or special budget of the Association, the Board shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting the Owners to which a majority of the votes in the Association are allocated reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(b) **Budget Summary.** As part of the summary of the budget provided to all Owners, the Board shall disclose to the Owners:

(i) The current amount of regular assessments budgeted for contribution to the Reserve Account (defined below), the recommended contribution rate from the Reserve Study, and the funding plan upon which the recommended contribution rate is based;

(ii) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each Owner per month or year, and the purpose of the assessments;

(iii) Based upon the most recent Reserve Study and other information, whether currently projected Reserve Account balances will be sufficient at the end of each year to meet the Association's obligation for major maintenance, repair, or replacement of Reserve Components during the next thirty (30) years;

(iv) If Reserve Account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient Reserve Account funds will be available each year during the next thirty (30) years, the approximate dates assessments may be due, and the amount of the assessments per Owner per month or year;

(v) The estimated amount recommended in the Reserve Account at the end of the current fiscal year based on the most recent Reserve Study, the projected Reserve Account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest Reserve Study;

(vi) The estimated amount recommended in the Reserve Account based upon the most recent Reserve Study at the end of each of the next five (5) budget years, the projected Reserve Account cash balance in each of those years, and the projected percent funded for each of those years; and (vii) If the funding plan approved by the Association is implemented, projected Reserve Account cash balance in each of the next five (5) budget years and the percent funded for each of those years.

5.3 Levy of General Assessment. In order to meet the costs and expenses projected in its operating budget, the Association shall by Association Action determine and levy in advance on every Lot a general assessment. The amount of each Lot's general assessment shall be the amount of the Association's operating budget divided by the sum of the number of Lots. The Association shall make reasonable efforts to determine the amount of the general assessment payable by each Owner for an assessment period at least thirty (30) days in advance of the beginning of such period and shall at that time prepare a roster of the Owners and the general assessment allocated to each, which shall be open to inspection by any Owner upon reasonable notice to the Association. Notice of the general assessment shall thereupon be sent to each Owner; provided, however, that notification to an Owner of the amount of an assessment shall not be necessary to the validity thereof. The omission by the Association, before the expiration of any assessment period, to fix the amount of the general assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release by any Owner from the obligation to pay the general assessment, or any installment thereof, for that or any subsequent assessment period, but the general assessment fixed for the preceding period shall continue until a new assessment is fixed. Upon any revision by the Association of the operating budget during the

assessment period for which such budget was prepared, the Association shall, if necessary, revise the general assessment levied against Lots and give notice to each Owner.

5.4 **Payment of General Assessment.** Upon Association Action, installments of general assessments may be collected on a monthly, quarterly, semi-annual, or annual basis, as determined by the Board. Unless the Board otherwise provides, one-twelfth of the General Assessment shall be due in advance on the first day of each calendar month. Any Owner may prepay one or more installments on any assessment levied by the Association without penalty.

5.5 **Nondiscriminatory Assessment.** Except as otherwise specifically provided herein, no assessment shall be made at any time which may unreasonably discriminate against any particular Owner or group of Owners in favor of other Owners. However, a special assessment may be made against a particular Owner and Owner's Lot by a two-thirds (2/3) majority vote of the Board if, after notice from the Association of failure to maintain such Lot in a condition comparable to the other Lots has been given, the Association elects to expend funds to bring such Owner's Lot up to such comparable standard.

5.6 **Commencement of Assessments.** Liability of an Owner for assessments shall commence on the date upon which any instrument of transfer to such Owner becomes operative (such as the date of a deed or the date of a recorded real estate contract for the sale of any Lot) or, if earlier, the commencement date of Owner's occupancy of such Lot. The Declarant, its successors and assigns shall not be liable for any assessments with respect to any Lot.

Upon the initial closing on any Lot from Declarant, the buyer thereof shall pay a one-time assessment in the amount of Five Hundred Dollars (\$500.00) to be used to fund the Association's operation and maintenance fund (the "*Initial Assessment*"). A portion of the Initial Assessment equal to at least one month's Minimum Allowable Reserves shall be deposited into the Reserve Account, as defined in Section 5.12. The Initial Assessment shall be in addition to any assessment established by the Association, and shall be paid by all buyers, including builders.

5.7 **Certificates of Assessment Payment.** Upon request, the Board shall furnish written certificates certifying the extent to which assessment payments on a specified Lot are paid and current to the date stated therein. A reasonable charge may be made by the Association for the issuance of such certificate.

5.8 **Special Assessments.** In addition to the general assessments authorized by this Article, the Association may, by Association Action, levy a special assessment or assessments at any time, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, inordinate repair, or replacement of a capital improvement located upon or forming a part of the Common Areas, including necessary fixtures and personal property related thereto, or for such other purpose as the Association may consider appropriate, including maintenance of a Lot as provided in Section 5.5. The due dates of any special assessment payments shall be fixed by the Association Action authorizing such special assessment.

5.9 **Effect of Nonpayment of Assessment.** If any assessment payment is not made in full within thirty (30) days after it was first due and payable, the unpaid amounts shall constitute a lien against the Lot assessed and shall bear interest from such due date at a rate set by the Board in

its rules and regulations which shall not exceed the highest rate then permitted by law. By acceptance of a deed to a Lot, recording of a real estate contract therefore, or any other means of acquisition of an ownership interest, and whether or not it shall be so expressed in any such deed or other instrument, each Owner shall be deemed to grant thereby to the Association, its agents and employees, and to Declarant during the Development Period, the right and power to bring all actions against such Owner personally for the collection of such assessments as a debt, and to enforce the liens created by this Declaration in favor of the Association by foreclosure of the continuing liens in the same form of action as is then provided for the foreclosure of a mortgage on real property. The liens provided for in this Declaration shall be for the benefit of the Association, and shall arise in accordance with the terms of this Declaration without the necessity of any further action by the Association. The Association shall have the power to bid at any lien foreclosure sale and to acquire, hold, lease, mortgage, and convey the Lot foreclosed against.

5.10 Duration of Lien. Any lien arising pursuant to Section 5.9 shall be a continuing lien in the amount stated in the assessment from the time of the assessment, but expiring pro rata as the assessment payments are made, and shall also be the personal obligation of the person or entity who is the Owner of the Lot at the time of the assessment. The personal obligation to pay a prior assessment shall not pass to successors in interest unless expressly assumed by them; provided, however, that in the case of a sale or contract for the sale of any Lot which is charged with the payment of an assessment, the person or entity who is the Owner immediately prior to the date of such sale shall be personally liable for the amounts of the monthly installments due prior to said date, and the new Owner shall be personally liable for monthly installments becoming due on or after such date. The foregoing limitation on the duration of the personal obligation of an Owner to pay assessments shall not, however, affect the validity or duration of the continuing lien for unpaid assessments against the respective Lot.

5.11 Suspension for Nonpayment of Assessment. If an Owner shall be in arrears in the payment of any assessment due, or shall otherwise be in default of the performance of any terms of the Governing Documents of the Association for a period of thirty (30) days, said Owner's voting rights shall without the necessity of any further action by the Association, be suspended (except as against foreclosing secured parties) and shall remain suspended until all payments, including interest thereon, are brought current and any other default is remedied. No Owner is relieved of liability for assessments by nonuse of the Common Areas or by abandonment of a Lot.

5.12 Reserve Account for Repair or Replacement. As a Common Expense, the Association may establish and maintain a reserve fund for major maintenance, repair or replacement of the Common Areas and any improvements thereon ("Reserve Account"). Such Reserve Account shall be deposited with a banking institution, and in the name of the Association. The Reserve Account shall be expended only for the purpose of affecting the major maintenance, repair or replacement of the Common Areas and any improvements and thereon, and to any sidewalks, roads, drainage facilities developed as a part of Diamond Ridge, equipment replacement, and for operating contingencies of a nonrecurring nature. The Board is responsible for administering the Reserve Account. The Association may establish such other reserves for such other purposes as it may from time to time consider to be necessary or appropriate. The proportional interest of any Owner in any such reserves shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned, or transferred from the Lot to which it appertains.

Withdrawals from Reserve Account. In addition to withdrawals for the purposes set forth in Section 5.12 above, the Association may withdraw funds from the Reserve Account to pay for unforeseen or unbudgeted costs that are unrelated to maintenance, repair, or replacement of Reserve Components. The Board shall record any such withdrawal in the Association's minute books, cause notice of any such withdrawal to be hand delivered or sent prepaid by first-class U.S. mail to the mailing address of each Owner, and adopt a repayment schedule not to exceed twenty-four (24) months unless the Board determines that repayment within twenty-four (24) months would impose an unreasonable burden on the Owners. Payment for major maintenance, repair, or replacement of the Reserve Components out of cycle with the Reserve Study projections or not included in the Reserve Study may be made from the Reserve Account without meeting the notification or repayment requirements under this Section 5.12(a).

5.13 Reserve Studies. The provisions of this Section 5.13 are intended to summarize the requirements for reserve studies as provided in RCW 64.38.065-.090, and in the event of any conflict with the provisions herein, the statutory provisions shall control. Unless the Board determines that doing so would impose an unreasonable hardship, the Board shall, cause the Association to prepare an initial reserve study (a "Reserve Study") based upon a visual site inspection conducted by a Reserve Study Professional. The Reserve Study shall comply with the requirements of RCW 64.38.070, and shall be updated annually unless doing so would impose an unreasonable hardship. At least every three (3) years, an updated Reserve Study must be prepared and based upon a visual site inspection conducted by a Reserve Study Professional.

5.14 Limitations on Liability related to Reserve Account and Reserve Studies. Monetary damages or any other liability may not be awarded against or imposed upon the Association, its officers, the Board, or those persons who may have provided advice or assistance to the Association, its officers, or the Board, for failure to: (a) establish a Reserve Account; (b) have a current Reserve Study prepared or updated in accordance with the requirements of Chapter 64.38 RCW and this Declaration; or (c) make the required disclosures in accordance with Section 5.2(b) and Chapter 64.38 RCW.

5.15 Failure to Comply Does Not Relieve Owners. An Owner's duty to pay for Common Expenses is not excused, and a budget ratified by the Owners is not invalidated, because of the Association's failure to comply with the Reserve Study or Reserve Account requirements.

5.16 Certain Areas Exempt. The Tracts and all portions of Diamond Ridge dedicated to and accepted by a public authority shall be exempt from assessments by the Association.

ARTICLE 6 SUBORDINATION OF LIENS

6.1 Intent of Provisions. The provisions of this Article 6 apply for the benefit of each Mortgagee who lends money for purposes of construction or to secure the payment of the purchase price of a Lot.

6.2 Mortgagee's Nonliability. The holder of a Mortgage shall not, by reason of its security interest only, be liable for the payment of any assessment or charge, nor for the observance

or performance of any covenant or restriction, excepting only those enforceable by equitable relief and not requiring the payment of money, and except as hereafter provided.

6.3 **Mortgagee's Rights During Foreclosure.** During foreclosure of a Mortgage, including any period of redemption, the holder of the Mortgage may exercise any or all of the rights and privileges of the Owner of the encumbered Lot, including but not limited to the right to vote in the Association to the exclusion of the Owner's exercise of such rights and privileges.

6.4 **Mortgagee as Owner.** At such time as a Mortgagee shall become the record Owner of the Lot previously encumbered by the Mortgage, the Mortgagee shall be subject to all of the terms and conditions of this Declaration, including the obligation to pay for all assessments and charges in the same manner as any Owner.

6.5 **Survival of Assessment Obligation.** After the foreclosure of a security interest in a Lot, any unpaid assessments shall continue to exist and remain as a personal obligation of the Owner against whom the same was levied, and the Association shall use reasonable efforts to collect the same from such Owner.

6.6 **Subordination of Assessment Liens.** The liens for assessments provided for in this Declaration shall be subordinate to the lien of any first Mortgage or other security interest placed upon a Lot as a construction loan security interest or as a purchase price security interest, and the Association will, upon demand, execute a written subordination document to confirm such priority. The sale or transfer of any Lot or of any interest therein shall not affect the liens provided for in this Declaration except as otherwise specifically provided for herein, and in the case of a transfer of a Lot for purposes of realizing a security interest, liens shall arise against the Lot for any assessment payments coming due after the date of completion of foreclosure.

ARTICLE 7 USE COVENANTS, CONDITIONS AND RESTRICTIONS

7.1 **Authorized Uses.** Diamond Ridge shall be used solely for residential purposes and related facilities normally incidental to a residential community. After the Development Period no Lot shall be further subdivided, except as permitted in this Declaration without prior approval conferred by Association Action.

7.2 **Leasing Restrictions.** No residence on any Lot may be leased or rented by any party for a period of fewer than thirty (30) days, nor shall less than the whole of any Lot be leased or rented. Each lease or rental agreement shall be in writing and shall by its terms provide that it is subject in all respects to the provisions of the Governing Documents. Any failure by a lessee to comply with the terms of the Governing Documents shall be a default under the lease, whether or not it is so expressed therein. Other than the foregoing, there is no restriction on the right of any Owner to lease his Lot or residence.

7.3 **Animals.** No animals or livestock of any kind shall be raised, bred, or kept in Diamond Ridge except as specifically provided herein. Domesticated dogs, cats, or other conventional household pets may be kept if they are not kept, bred, or maintained for any commercial purposes, and all animals must be in compliance with applicable codes and regulations.

“Other conventional household pets” shall include only traditionally domesticated pets and shall not include any exotic pets such as large or potentially dangerous reptiles, potentially harmful insects, bees, large birds, wild animals, and animals not normally domesticated, all of which are strictly prohibited in Diamond Ridge. No more than five (5) chickens may be kept on a Lot. Roosters are strictly prohibited on all Lots. No domestic pet may be kept if its presence or actions constitute a public or private nuisance. Pets shall be registered, licensed, and inoculated from time to time as required by law. When not confined to the Owner’s Lot, pets within Diamond Ridge shall be leashed and accompanied by a person responsible for cleaning up any animal waste. No pets shall be tethered to any rope, cord, chain, etc., while outdoors on a Lot within Diamond Ridge for longer than two hours at a time. Horses are not permitted within Diamond Ridge. Any other non-domestic pets must obtain written approval by the Board.

7.4 **Commercial Uses.** No commercial enterprise, including itinerant vendors, shall be permitted on any Lot; provided, however, that the Association may, by adopting rules and regulations, permit specified home occupations to be conducted if allowed by law and if such occupation will not, in the reasonable judgment of the Association, cause traffic congestion or other disruption of Diamond Ridge community; and provided further that no signs or advertising devices of any character shall be permitted.

7.5 **Unsightly Conditions.** No unsightly conditions shall be permitted to exist on any Lot. Unsightly conditions shall include, without limitation; improperly maintained landscaping; the keeping of publicly visible disabled vehicles of any kind whatsoever; litter, trash, junk or other debris; inappropriate, broken or damaged furniture or plants; non-decorative gear, equipment, cans, bottles, ladders, trash barrels and other such items; and no awnings, air conditioning units, heat pumps or other projections shall be placed on the exterior walls of any housing unit unless prior written approval shall have been obtained from the Board. This Section 7.5 shall not apply to Lots owned by Declarant during the Development Period.

7.6 **Garbage.** All trash shall be placed in sanitary containers that are screened so as not to be visible from adjoining structures or streets or roadways, except on designated trash collection days. No Lot or any portion thereof shall be used as a dumping ground for trash or rubbish of any kind. Yard rakings, dirt and debris resulting from landscaping work or construction shall not be dumped onto adjoining lots or streets or roadways.

7.7 **Utilities Underground.** Except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, telephone, power, or television cable, or similar transmission line shall be installed or maintained above the surface of the ground.

7.8 **Signs.**

(a) **Rights of Declarant.** So long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 11, Declarant may maintain and carry on upon portions of the Common Area or upon any Lot owned by Declarant or authorized builders such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model units, and sales offices.

(b) **Restrictions on Owners.** Entrance, street, traffic control and safety signs, wetland buffer and such promotional signs as may be maintained by Declarant or the Association are permitted, No signage may be displayed in windows or be posted on the Subject Property, except: holiday signs, decorations, and lights or political signs may be neatly displayed during seasonal time lines only on Lots. Signs may not exceed dimensions of eighteen (18) inches by twenty-four (24) inches. Signs, decorations, and lights may be installed thirty (30) days prior to the holiday and must be removed within fourteen (14) days after the holiday.

(i) **Political Signs.** Political Campaign signage shall be permitted on Lots, with the following restrictions: (a) one Political Sign (defined below), (b) of not more than five (5) square feet placed on a Lot, (c) a maximum height of four (4) feet if posted in the ground, (d) of professional quality and design (e) not obstructing line of sight nor any traffic or traffic signals and signage. For the purposes of this Section 7.8(b)(i), the term "Political Sign" means a sign which advocates for one particular candidate, political party or ballot measure, which is placed no sooner than thirty (30) days before the date of a regular or special election on a Lot. Political Signs must be removed within three (3) days following the election. No signs can be placed in or upon Common Areas.

(ii) **For Sale Signs.** One professionally printed real estate "For Sale," "For Sale by Owner," or "For Rent" sign may be posted upon a Lot for a residential sale following industry standards for sign size, with a realtor T-Bar, and appropriate attached flyer box. Approved signage for units located without street frontage may be posted on the streetscape nearest the unit. Other types of "For Sale by Owner" or "For Lease/Rent" yard or window signs are prohibited. Owners shall comply with industry standards. Owners are responsible for repairs or damage to the lawn or irrigation system related to any sign installation. Open house sandwich boards and directional locator signs may only be used on the day of the open house for the duration of that day's showing. Realtors may display brochures in the attached flyer boxes. One sign, not to exceed nine (9) inches by twenty-four (24) inches, may be staked in the front of or placed in the window of the home for sale or rent. Garage sale and estate sale signage is prohibited except for community-wide garage sale events sponsored by the events staff. Garage sales are only permitted during the community-wide events.

7.9 No Obstruction of Easements. No structure, planting, or other material shall be placed or permitted to remain upon the Subject Property which may damage or interfere with any easement or the installation or maintenance of utilities, or which may unreasonably change, obstruct, or retard direction or flow of any drainage channels. No decorative planting, structure or fence may be maintained within an easement area.

7.10 Antennas and Clotheslines. No external aerial antenna, free-standing antenna towers, satellite reception dishes of any kind or clotheslines shall be permitted in Diamond Ridge; provided, however, satellite dishes of less than twenty-four (24) inches in diameter are permitted provided the Board approves the location of same. Satellite dishes greater than twenty-four (24) inches in diameter may be allowed through written consent of the Board.

7.11 Owners' Maintenance Responsibilities. The maintenance, upkeep, and repair of individual Lots and homes shall be the sole responsibility of the individual Owners thereof, and in no way shall it be the responsibility of the Association, its agents, officers or directors. Owners

shall maintain their Lots and homes in good repair and in a clean, sightly, and sanitary condition at all times. Without limitation as to the foregoing, each Owner shall be obligated to keep his Lot and home in a clean, sightly and sanitary condition and maintain the landscaping on his Lot in a healthy and attractive state and in a manner comparable to that on the other Lots in Diamond Ridge. No storage of firewood shall be permitted in front yards. After thirty (30) days' written notice to an Owner from the Association of such Owner's failure to so maintain his home or Lot, and after approval by a two-thirds (2/3) majority vote by the Board, the Association shall have the right, through its agents and employees, to enter upon any Lot which has been found to violate the foregoing standards in order to restore the home or Lot to such standards. The cost of such work shall be a special assessment on such Owner and his Lot only.

7.12 **Weapons.** No firearms of any kind or nature, including rifles, handguns, bows, slingshots, BB guns, slings, traps, or any other like weapon, shall be used or discharged within Diamond Ridge except by authorized governmental officials.

7.13 **Nuisances Prohibited.** No noxious or offensive activity shall be conducted in any portion of Diamond Ridge, nor shall anything be done or maintained therein in derogation or violation of the laws of the State of Washington or any other applicable governmental entity. Nothing shall be done or maintained on any portion of Diamond Ridge which may be or become an annoyance or nuisance to the neighborhood or detract from the value of the Diamond Ridge community. The Association shall determine by Association Action whether any given use of a Lot unreasonably interferes with the rights of the other Owners to the use and enjoyment of their respective Lots or of the Common Areas, and such determination shall be final and conclusive.

7.14 **Preservation of Landscaping.** No party subject to the terms of this Declaration or his/her/their agents, employees or guests shall destroy or otherwise materially adversely impact landscaping on Common Areas and/or dedicated Tracts, or as otherwise governed by applicable laws, codes and regulations.

7.15 **Recreational or Commercial Vehicles.** No recreational or commercial vehicles (semi-cab or trailer, motor home, trailer, boat, dune buggy, motorcycle, race car, or similar vehicle) shall be stored in a driveway, front yard, or along the street adjacent to the Subject Property lot. No car parts, appliances, or immobilized or immobile vehicles shall be placed or stored on any portion of the Subject Property.

7.16 **Temporary Structures.** No Structure or improvement of a temporary character, including without limitation a trailer, tent, shack, garage, barn, or other outbuilding shall be installed, placed or used on any Lot as a dwelling or residence, either temporarily or permanently.

7.17 **Fences.** Installation of any fence requires the prior written consent of the Board. No Lot shall contain a fence or other structure, excluding reasonable mailbox structures, within twenty (20) feet of any roadway or Tract. No wall hedge, living wall, or other mass planting of vegetation over three (3) feet in height, shall be permitted within twenty (20) feet of any roadway or shared access Tract.

7.18 **Lot Size Restriction.** No Lot or portion of a Lot in the Plat shall be divided and sold or resold or ownership changed or transferred, whereby the ownership of any portion of Diamond Ridge shall be less than the area required for the use district in which located.

7.19 **Window Coverings.** No newspapers, bed sheets or other makeshift window coverings shall be visible from the exterior of the residence.

7.20 **Damage.** Any damage to streets, Plat improvements, entry structures, fences, landscaping, mailboxes, lights and lighting standards by Lot Owners, their children, contractors, agents, visitors, friends, relatives or service personnel shall be repaired and restored to like new condition by such Owner within twelve (12) days from the occurrence of such damage. After thirty (30) days' written notice to an Owner from the Association of such Owner's failure to so repair, and after approval by a two-thirds (2/3) majority vote by the Board, the Association shall have the right, through its agents and employees, make such repairs on behalf of such Owner. The cost of such work shall be a special assessment on such Owner and his Lot only.

ARTICLE 8 INSURANCE; CASUALTY LOSSES; CONDEMNATION

8.1 **Insurance Coverage.** The Association may maintain insurance as the Association deems advisable; provided, that notwithstanding any other provisions herein, the Association shall continuously maintain in effect casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for similar projects established by Federal National Mortgage Association, Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority, and Veterans Administration, so long as any of them is a Mortgagee or Owner, except to the extent such coverage is not available or has been waived in writing by such agencies.

8.2 **Condemnation.** In the event any part of the Common Areas is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, the Association shall give prompt notice of any such proceeding or proposed acquisition to the Owners and to the holders of all First Mortgages who have requested from the Association notification of any such proceeding or proposed acquisition. All compensation, damages, or other proceeds therefrom, shall be payable to the Association.

ARTICLE 9 ENFORCEMENT

9.1 **Right to Enforce.** The Association, Declarant, or any Owner shall have the right to enforce, by any appropriate proceeding at law or in equity, all covenants, conditions, restrictions, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration.

9.2 **Remedies Cumulative.** Remedies provided by this Declaration are in addition to, cumulative with, and are not in lieu of, other remedies provided by law. There shall be, and there is hereby created, a conclusive presumption that any breach or attempted breach of the covenants, conditions, and restrictions herein cannot be adequately remedied by an action at law or exclusively by recovery of damages.

9.3 **Covenants Running with the Land.** The covenants, conditions, restrictions, liens, easements, enjoyment rights, and other provisions contained herein are intended to and shall run with the land and shall be binding upon all persons purchasing, leasing, subleasing, or otherwise occupying any portion of the Subject Property, their heirs, executors, administrators, successors, grantees, and assigns. All instruments granting or conveying any interest in any Lot shall be subject to this Declaration.

ARTICLE 10 AMENDMENT AND REVOCATION

10.1 **Amendment by Declarant or Association.** Declarant may, on its sole signature, and as attorney-in-fact for all Owners with irrevocable power, during the Development Period, amend this Declaration. This Declaration may also be amended at any time by an instrument executed by the Association for and on behalf of the Owners, provided, however, that such amendments shall have received the prior approval of a vote of the Owners having sixty percent (60%) of the total outstanding votes in the Association; and provided, further, that no such amendment shall be valid during the Development Period without the prior written consent of the Declarant. Notwithstanding any of the foregoing, the prior written approval of fifty-one percent (51%) of all Mortgagees who have requested from the Association notification of amendments shall be required for any material amendment to the Declaration or the Association's Bylaws of any of the following: voting rights; assessments, assessment liens, and subordination of such liens; reserves for maintenance, repair, and replacement of Common Areas; insurance or fidelity bonds; responsibility for maintenance and repair; reallocation of interest in the Common Areas; leasing of Lots other than as set forth herein; imposition of any restrictions on the right of an Owner to sell or transfer his Lot; a decision by the Association to establish self-management when professional management had been required previously by an eligible Mortgagee; any action to terminate the legal status of the Association after substantial destruction or condemnation occurs; or any provisions which are for the express benefit of Mortgagees or eligible insurers or guarantors of First Mortgages.

10.2 **Effective Date.** Amendments shall take effect only upon recording in the official real property records of King County, Washington.

ARTICLE 11 PHASED DEVELOPMENT; DEVELOPMENT RIGHTS

11.1 **Subsequent Development.** Declarant reserves as a Development Right for itself, its successors or assigns, the right, in one or more phases, to subject additional properties to this Declaration, to withdraw undeveloped property from it, to complete improvements on the Lots, and to designate portions of the Subject Property subject to future development as Common Areas. Declarant shall be the initial owner of all Lots in all phases. Improvements in all phases shall be consistent with one another in quality of construction. Declarant shall adopt amendments to this Declaration and the Plat (or record subsequent plats) on Declarant's signature alone as necessary in Declarant's sole discretion in exercising Declarant's reserved Development Rights. Each Lot Owner appoints the Declarant as his or her attorney-in-fact to adopt and file amendments to this Declaration necessary to add or subtract such properties, or to designate portions of the Subject Property subject to future development as Common Areas, If the Declarant elects to subject

additional property to this Declaration, Declarant shall grant to the Lot Owners of such additional properties (and Declarant, if applicable) all of the rights and benefits to which Members of the Association are entitled. Upon the addition of Lots and Common Areas, the Board shall establish a new budget suitable to the expanded number of Lots and Common Areas, and shall thereafter impose monthly assessments based on that revised budget.

11.2 Consent to Adding or Subtracting Properties. Declarant reserves as a Development Right the right to subject additional properties to this Declaration at any time prior to termination of the Development Period. Declarant may also withdraw any undeveloped properties from this Declaration at any time prior to termination of the Development Period. Each Lot Owner appoints the Declarant as his or her attorney-in-fact to adopt and file amendments to this Declaration necessary to add or subtract such properties, or to designate portions of the Subject Property subject to future development as Common Areas. The Lot Owners shall be benefitted by any Common Areas the Declarant elects to add or designate to Diamond Ridge, either through Association ownership and control of said Common Areas or by easements of use and enjoyment in favor of said Lot Owners on said Common Areas. The Lot Owners of any property added by Declaration to Diamond Ridge shall have an easement for use and enjoyment of the existing Common Areas and shall have all the obligations to pay the cost of maintaining the Common Areas as provided herein. The Declarant shall also have as a Development Right the right to extend existing easements and may create new easements over the Lots still within Declarant's control so as to provide access to and service additional properties and future development within the Subject Property. Neither the Association nor any Lot Owners shall have any right in any additional property nor shall this Declaration have any effect on such additional property until it is subjected to this Declaration by adoption of an amendment to this Declaration specifically describing such additional property. The rights reserved by Declarant in this Section shall be exercised by Declarant at Declarant's sole discretion.

11.3 No Requirement to Include Additional Properties. Nothing contained in this Declaration shall be construed to require the Declarant to subject additional properties to this Declaration.

ARTICLE 12 GENERAL PROVISIONS

12.1 Taxes. Each Owner shall pay without abatement, deduction, or offset, all real and personal property taxes, general and special assessments, including local improvement assessments, and other charges of every description levied on or assessed against his Lot, or personal property located on or in the Lot. The Association shall likewise pay without abatement, deduction, or offset, all of the foregoing taxes, assessments, and charges levied or assessed against the Common Areas.

12.2 Non-Waiver. No waiver of any breach of this Declaration or failure to enforce any covenant of this Declaration shall constitute a waiver of any other breach, whether of the same or any other covenant, condition, or restriction.

12.3 Attorneys' Fees. In the event of a suit or action to enforce any provision of this Declaration or to collect any money due hereunder or to foreclose a lien, the unsuccessful party in

such suit or action shall pay to the prevailing party all costs and expenses, including title reports, and all attorney's fees that the prevailing party has incurred in connection with the suit or action, in such amounts as the court may deem to be reasonable therein, and also including all costs, expenses, and attorneys' fees incurred in connection with any appeal from the decision of a trial court or any intermediate appellate court.

12.4 **No Abandonment of Obligation.** No Owner, through his non-use of any Common Area, or by abandonment of his Lot, may avoid or diminish the burdens or obligations imposed by this Declaration.

12.5 **Captions.** The captions of the various articles, sections and paragraphs of this Declaration are for convenience of use and reference only and do not define, limit, augment, or describe the scope, content or intent of this Declaration or any parts of this Declaration.

12.6 **Severability.** Invalidation of any one of these covenants, conditions, restrictions, easements, or provisions by judgment or court order shall in no way affect any other of the same, all of which shall remain in full force and effect.

12.7 **Notices.** All notices, demands, or other communications ("Notices") permitted or required to be given by this Declaration shall be in writing and, if mailed postage prepaid by certified or registered mail, return receipt requested, shall be deemed given three days after the date of mailing thereof, or on the date of actual receipt, if sooner; otherwise, Notices shall be deemed given on the date of actual receipt. Notice to any Owner may be given at any Lot owned by such Owner; provided, however, that an Owner may from time to time by Notice to the Association designate such other place or places or individuals for the receipt of future Notices. If there is more than one Owner of a Lot, Notice to any one such Owner shall be sufficient. The address of Declarant and of the Association shall be given to each Owner at or before the time he becomes an Owner. If the address of Declarant or the Association shall be changed, Notice shall be given to all Owners.

12.8 **Indemnification.** The Association shall indemnify every officer and director authorized to act on behalf of the Association by the Board or by this Declaration against any and all expenses, including counsel fees, reasonably incurred by, or imposed upon, any officer and director in connection with any action, suit or proceeding if approved by the then Board to which he or she may be a party by reason of being or having been an officer and director. The officers and directors shall not be liable for any mistakes of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers and directors may also be members of the Association), and the Association shall indemnify and forever hold each officer and director free and harmless against any and all liability to others on account of any such contract or commitment. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

12.9 **Applicable Law.** This Declaration shall be construed in all respects under the laws of the State of Washington.

EXHIBIT A

Legal Description of Subject Property

Lots 1 through 10 and Tracts X and Y of the Diamond Ridge Plat Recorded on _____,
2015 at King County Auditor's File No. _____.

**CITY OF BLACK DIAMOND
PRIVATE PROJECT DEVELOPMENT
PERFORMANCE BOND**

City Project EN #: _____
Surety Bond #: 0195119
DATE POSTED: _____
PROJECT COMPLETION DATE: _____

RE: Subdivision/Plat/Name: Diamond Ridge
Owner/Developer/Contractor: Shake N Bake, LLC
Project Address: Black Diamond, WA

KNOW ALL PERSONS BY THESE PRESENTS: That we, Shake N Bake, LLC
_____ (hereinafter called the "Principal"), and Berkley Insurance Company
_____ a corporation organized under the laws of the State of Delaware, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Black Diamond, Washington, in the sum of *Fifty Two Thousand One (\$52,168.50), lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents. THE CONDITIONS of the above obligation are such that: *Hundred Sixty Eight and 50/100

WHEREAS, the above named Principal has entered into a certain agreement with the City, or has been granted approval by the City, for various improvements within the City;

WHEREAS, the agreement or the approval granted by the City requires that certain improvements be made in connection with construction of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications submitted with the project, as required by the City; and

WHEREAS, the agreement or the approval granted by the City requires that the improvements are to be made or constructed within a certain period of time, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Black Diamond, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include, satisfactory completion of the outstanding items that remain to be completed as listed in the attached list dated January 24th, 2016 attached to this performance bond as required by Diamond Ridge preliminary plat conditions, City Construction standards and the approved improvement plan by permit PW12-0004.

2. The Principal must construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced City file. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file before August 30th, 2016 unless an extension is granted by the City. _____
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, materialman and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in paragraph 3 above.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.

- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right,

without recourse to legal action, to take such action under this bond as described in Section B above.

- D. Extensions and Changes. No change, extension of time, alteration or addition to the work to be performed by the Principal shall affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The surety waives notice of any such change, extension, alteration or addition thereunder.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Pierce County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a bond guaranteeing maintenance of all improvements for a period of twenty-four (24) months from acceptance has been submitted to the City in an amount to be determined by the City Engineer, in a form suitable to the City and until released in writing by the City.

DATED this 3 day of February, 2016.

SURETY COMPANY

(Signature must be notarized)

By: Karen C. Swanson
Its Attorney-in-Fact

Print Name: Karen C. Swanson

Business Name: Berkley Insurance Company

Business Address: 412 Mount Kemble Avenue

City/State/Zip Code: Morristown, NJ 07960

Telephone Number: (206)223-5842

DEVELOPER/OWNER

(Signature must be notarized)

By: Jalen Johansen
Its Member

Print Name: Jalen Johansen

Business Name: Shake N Bake, LLC

Business Address: 28215 112th St. E

City/State/Zip Code: Buckley, WA 98321

Telephone Number: (360)829-6493

CITY OF BLACK DIAMOND

By: _____
Its: _____

Date: _____

The City of Black Diamond
24302 Roberts Drive
P.O. Box 599
Black Diamond, WA 98010

APPROVED AS TO FORM:

Office of the City Attorney

CHECK FOR ATTACHED NOTARY SIGNATURE

- Individual (Form P-1)
 - Corporation (Form P-2)
-

FORM P-1 / NOTARY BLOCK
(Use For Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 2/4/16



Rachael Hernandez
(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: Buckley WA
My Commission expires: 1/9/17



FORM P-2 / NOTARY BLOCK - (Use For Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that Jalen Hansen is the person who appeared before me, and said person acknowledged as the Member of Shake n Bake that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



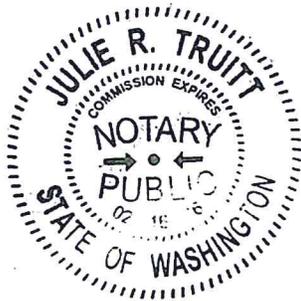
Dated: 2/4/17
[Signature]
Rachael Hernandez
(print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at: Buckley WA
My Commission expires: 1/9/17

(For Surety Company)
STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Karen C. Swanson is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Berkley Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 3, 2016



[Signature]
Julie R. Truitt
(print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at: Gig Harbor
My Commission expires: 2/16/2016

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

100-01-12200

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Karen C. Swanson; Julie R. Truitt; Brent E. Heilesen; Christopher Kinyon; Jamie Diemer; Carley Espiritu; Peter J. Comfort; Jennifer L. Snyder; or Annelies M. Richie of Propel Insurance of Tacoma, WA* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety Group, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 26th day of October, 2015.

Attest:

(Seal)

By *Ira S. Lederman*
Ira S. Lederman
Senior Vice President & Secretary

Berkley Insurance Company

By *Jeffrey M. Hafter*
Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 26th day of October, 2015, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Senior Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019

Maria C. Rundbaker
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 3 day of February, 2016.

(Seal)

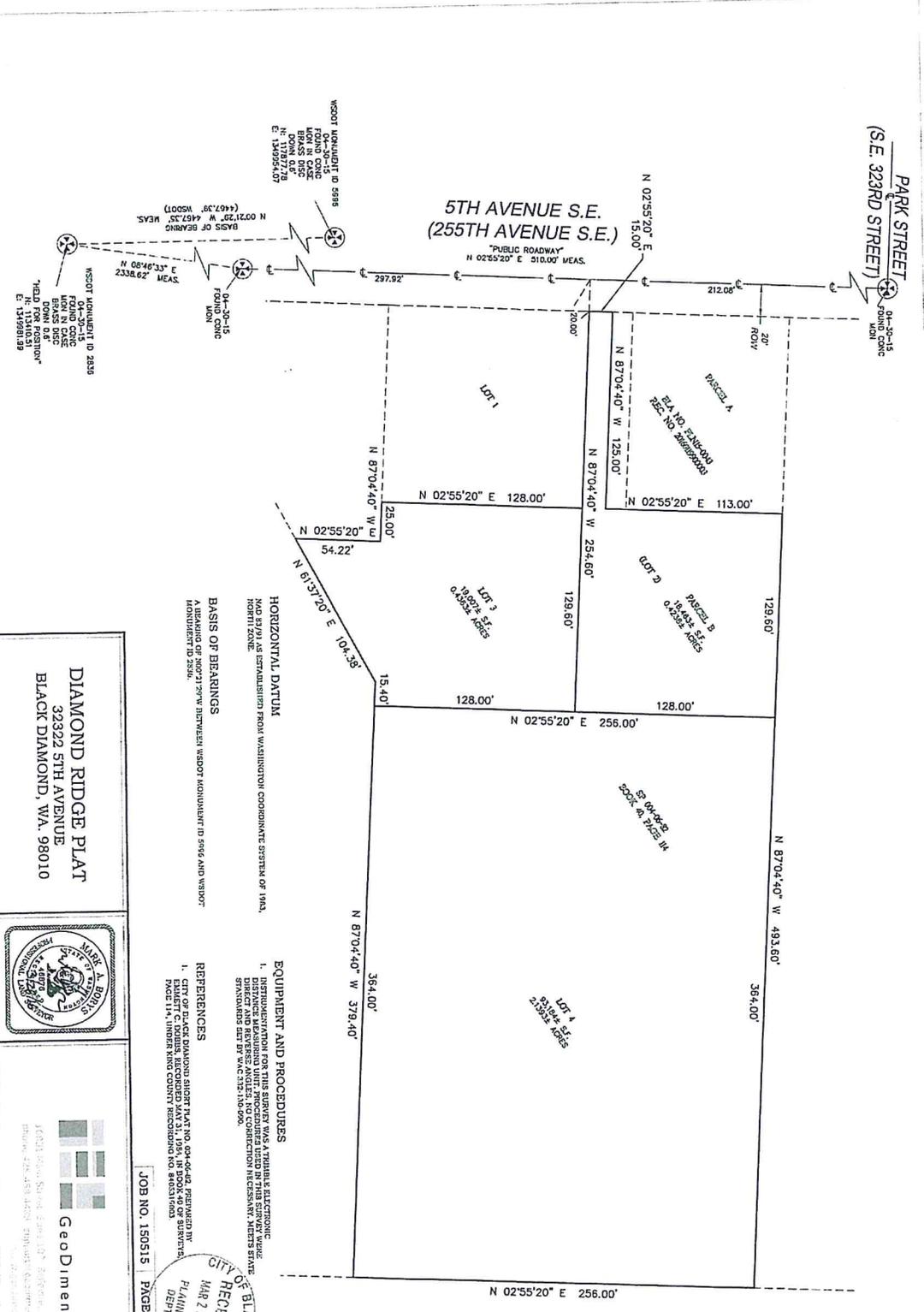
Andrew M. Tuma
Andrew M. Tuma

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and confirmation (on reverse) must be in blue ink.

DIAMOND RIDGE PLAT
 PLAN 15-0044
 CITY OF BLACK DIAMOND,
 WASHINGTON

ORIGINAL LOT LAYOUT

RECORDING NO. _____
 VIAL/PAGE _____
 PORTION OF
 NW 1/4 AND NE 1/4 OF THE NE 1/4 OF
 SEC. 14, T. 21 N., R. 6 E., W.M.



DIAMOND RIDGE PLAT
 32322 5TH AVENUE
 BLACK DIAMOND, WA, 98010



Geodimensions
 16001 16th Street, Suite 107, Bellevue, WA 98008
 Phone: 425-453-4400, Fax: 425-453-4401, Email: info@geodimensions.com

HORIZONTAL DATUM
 NAD 83/91 AS ESTABLISHED FROM WASHINGTON COORDINATE SYSTEM OF NAD,
 NORTH ZONE.

BASIS OF BEARINGS
 A BEARING OF N097°17'20" BETWEEN WOODS MONUMENT ID 2848 AND WOODS
 MONUMENT ID 2833.

EQUIPMENT AND PROCEDURES
 1. INSTRUMENTATION FOR THIS SURVEY WAS A TRIMBLE ELECTRONIC
 TOTAL STATION WITH AN AUTO TRACKING SYSTEM. THE SURVEY WAS
 DIRECT AND REVERSE ANGLES. NO CORRECTION NECESSARY. METERS STATE
 STANDARDS SET BY WAC 312-160-090.

REFERENCES
 1. CITY OF BLACK DIAMOND SUPER PLAT NO. 094-04-03, PREPARED BY
 GEODIMENSIONS, INC., 16001 16TH STREET, SUITE 107, BELLEVUE, WA
 98008, DATE 11/14/2014, UNDER KING COUNTY RECORDING NO. 860319003.

JOB NO. 150515 PAGE: 3 OF 4
 CITY OF BLACK DIAMOND
 RECEIVED
 MAR 29 2015
 PLANNING
 DEPT.

