



CITY OF BLACK DIAMOND
May 5, 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:

CONSENT AGENDA:

- 1) **Claim Checks** – May 5, 2016 - No. 43433 through No.43472 and EFTs in the amount of \$68,906.53
- 2) **Minutes** – Council Meeting of March 17, 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) **Claim Check** – March 7, 2016 – No. 43294 DKS Associates in the amount of \$10,000 Councilmember Weber
- 4) **AB16-016A** – Resolution Accepting Dept. of Ecology Grant for 2015 – 2017 Stormwater Capacity Grant Mr. Boettcher
- 5) **AB16-021A** – Resolution Confirming Mayor’s Appointment to Civil Service Commission Mayor Benson
- 6) **AB16-024B** – Resolution Authorizing an Agreement with BHC for Building Services Ms. Kincaid
- 7) **AB16-026A** – Resolution Approving an Agreement with DKS Associates Ms. Kincaid

NEW BUSINESS:

- 8) **AB16-028** – Resolution Authorizing a Conservation Grant Agreement with Puget Sound Energy for the LED Streetlight Conversion Project Mr. Boettcher
- 9) **AB16-029** – Resolution Authorizing a Water Quality Grant Agreement with King County for the North Commercial Stormwater Treatment Facility Project Mr. Boettcher
- 10) **AB16-030** – Resolution Confirming Mayor’s Appointment to the Planning Commission Position #7 Mayor Benson
- 11) **AB16-031** – Resolution Authorizing Interlocal Agreement with City of Maple Valley for Building Inspection Services Ms. Kincaid

- 12)AB16-032** – Resolution Awarding Jones Lake Overlay Project to Lakeridge Paving Co., LLC Mr. Boettcher
- 13)AB16-033** – Resolution Approving Professional Services Contract with Parametrix, Inc. for Design of Covington Creek Culvert Replacement Mr. Boettcher
- 14)AB16-034** – Ordinance Updating the Stormwater Code for New Development to Meet Department of Ecology Standards for Western Washington (First Reading) Councilmember Pepper

DEPARTMENT REPORTS:

MAYOR’S REPORT:

COUNCIL REPORTS:

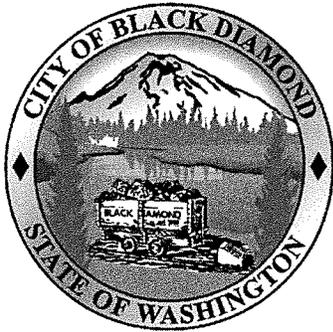
- Councilmember Deady
- Councilmember Morgan
- Councilmember Edelman
- Councilmember Weber
- Councilmember Pepper

ATTORNEY REPORT:

EXECUTIVE SESSION:

PUBLIC COMMENTS:

ADJOURNMENT:



CERTIFICATION

Date: May 05, 2016

Check No.'s/EFT	Batch Name	Amount
43433-43435	Early Release Cks May 1st Council 5/05/2016	\$ 512.88
	Pre-Council EFT May 1st Council 5/05/2016	\$ 3,342.69
43436-43472	May 1st Council 5/05/2016	\$ 65,050.96
	Total Vouchers	\$ 68,906.53

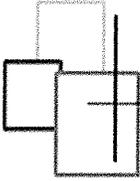
I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY, THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED AND OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF BLACK DIAMOND, AND THAT I AM AUTHORIZED TO AUTHENTICATE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

May Miller - 4-28-2016

 MAY MILLER, FINANCE DIRECTOR

 DATE

COUNCILMEMBERS



Register

Fiscal: 2016

Deposit Period: 2016 - May

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

Number	Name	Print Date	Amount
Columbia Bank	390562401		
Check			
<u>43433</u>	Judicial Conference Registrar	4/15/2016	\$130.00
<u>43434</u>	Petty Cash Custodian	4/18/2016	\$112.41
<u>43435</u>	Black Diamond Municipal Court	4/18/2016	\$270.47
<u>43436</u>	ADT Security Services (PA)	5/5/2016	\$138.32
<u>43437</u>	Brown's Automotive Inc.	5/5/2016	\$1,389.43
<u>43438</u>	CDW Government, Inc	5/5/2016	\$387.75
<u>43439</u>	CenturyLink (AZ)	5/5/2016	\$59.10
<u>43440</u>	CHS/Cenex	5/5/2016	\$1,559.05
<u>43441</u>	City of Enumclaw	5/5/2016	\$60.00
<u>43442</u>	City of Milton	5/5/2016	\$4,211.38
<u>43443</u>	Comcast (34227)	5/5/2016	\$226.96
<u>43444</u>	Comcast (34744)	5/5/2016	\$107.78
<u>43445</u>	Home Depot Credit Service	5/5/2016	\$796.22
<u>43446</u>	Intercom Language Services	5/5/2016	\$110.00
<u>43447</u>	Jason Pittam	5/5/2016	\$99.00
<u>43448</u>	Jeffrey Potter	5/5/2016	\$16.00
<u>43449</u>	Johnsons Home & Garden	5/5/2016	\$201.87
<u>43450</u>	Kara Murphy Richards	5/5/2016	\$2,000.00
<u>43451</u>	Kenneth Blakely	5/5/2016	\$115.00
<u>43452</u>	King County Finance I-Net	5/5/2016	\$375.00
<u>43453</u>	Legend Data Systems, Inc.	5/5/2016	\$16.43
<u>43454</u>	Melanie Thomas Dane	5/5/2016	\$2,000.00
<u>43455</u>	Mike's Auto Body	5/5/2016	\$584.27
<u>43456</u>	Office Products Nationwide	5/5/2016	\$266.13
<u>43457</u>	OMG National	5/5/2016	\$140.00
<u>43458</u>	Parametrix, Inc.	5/5/2016	\$7,540.63
<u>43459</u>	Randy Justice	5/5/2016	\$300.00
<u>43460</u>	Regional Animal Services of King County	5/5/2016	\$135.00
<u>43461</u>	RH2 Engineering Inc.	5/5/2016	\$20,989.04
<u>43462</u>	Russell Cahill	5/5/2016	\$613.00
<u>43463</u>	Sorci Family LLC	5/5/2016	\$4,200.44
<u>43464</u>	South Correctional Entity	5/5/2016	\$1,727.00
<u>43465</u>	Stantec Consulting Services, Inc.	5/5/2016	\$295.57
<u>43466</u>	State Auditor Office	5/5/2016	\$312.85

<u>43467</u>	Summit Law Group	5/5/2016	\$1,706.50
<u>43468</u>	Valley Communications	5/5/2016	\$12,016.99
<u>43469</u>	WA State Department of Corrections	5/5/2016	\$45.00
<u>43470</u>	Washington Department of Fish & Wildlife	5/5/2016	\$150.00
<u>43471</u>	Washington State Patrol	5/5/2016	\$88.50
<u>43472</u>	William & Suzanne Cadden	5/5/2016	\$16.00
<u>43473</u>	Yakima County Dept. of Corrections	5/5/2016	\$54.75
<u>EFT Payment 4/27/2016 12:11:24</u>	First Bankcard	5/14/2016	\$3,342.69
		Total	\$68,906.53

Vendor	Number	Reference	Account Number	Description	Amount
4329 Kiblinger					
April Charges					
	001-000-213-521-10-43-00			Civil Service Lodging, Meals & Mileage	\$11.92
				Panera Bread-Civil Service Meals	
	001-000-213-521-10-43-00			Civil Service Lodging, Meals & Mileage	\$33.00
				QFC-Civil Service Meals	
Total 4329 Kiblinger					\$44.92
4360 Martinez					
April Charges					
	001-000-137-514-21-43-00			Lodging, Meals & Mileage	\$225.76
				Red Lion Hotel-Lodging for City Clerk, WMCA Conference	
	001-000-137-514-21-43-00			Lodging, Meals & Mileage	\$45.00
				PayPal-SCA Networking Dinner for City Clerk	
	001-000-137-514-21-43-00			Lodging, Meals & Mileage	\$25.00
				Alaska Airline-Baggage Charge for City Clerk, WMCA Conference	
	310-000-011-594-18-64-00			General Government Technology	\$29.95
				Avantage*Movavi-Screen Capture Software-City Clerk	
Total 4360 Martinez					\$325.71
4829 Martinez					
April Charges					
	001-000-210-521-10-35-00			Firearms Program	\$1,213.58
				Taser International-Police-Taser, Battery, Holster, Cartridges	
Total 4829 Martinez					\$1,213.58
5176 Redd					
April Charges					
	001-000-246-558-70-49-00			Miscellaneous	\$21.89
				Fred Meyer-MDRT Meeting Refreshments	
	001-000-246-558-70-49-00			Miscellaneous	\$41.19
				Fred Meyer-MDRT Building Costs	
	001-000-246-558-70-49-00			Miscellaneous	\$13.09
				Chuck's Donuts-MDRT Meeting Refreshments	
Total 5176 Redd					\$76.17
8227 Tapac					
April Charges					
	001-000-210-521-10-35-00			Firearms Program	\$63.65
				The Home Depot-Firearm Supplies, Police	
	001-000-210-521-10-35-00			Firearms Program	\$1.06
				The Home Depot-Firearm Supplies, Police	
	001-000-210-521-10-35-00			Firearms Program	\$13.03
				McLendon Harware-Firearm Supplies, Police	
Total 8227 Tapac					\$77.74

Vendor	Number	Reference	Account Number	Description	Amount
9074 McGraw		April Charges			
		001-000-210-521-10-31-00		Operating Supplies	\$90.67
				Sirchie Finger Print Labo-Evidence Supplies, Police	
Total 9074 McGraw					\$90.67
9803 Bohn		April Charges			
		001-000-180-518-10-49-09		City Wellness Program	\$72.30
				Fred Meyer-Wellness Luncheon Salad Material	
Total 9803 Bohn					\$72.30
9871 Espring		April Charges			
		001-000-270-576-80-32-00		Fuel	\$5.21
				Millennium Petroleum Group-Fuel for PW Vehicle	
		001-000-270-576-80-35-00		Small Tools & Safety Equip	\$4.48
				Harbor Freight-Sheet Metal Screws, Parts Holder, Flashlights, Tape	
		001-000-270-576-80-35-00		Small Tools & Safety Equip	\$5.47
				Harbor Freight-Screwdriver Set, Swivel Vice w/Anvil, Nonslip Tape	
		001-000-270-576-80-35-00		Small Tools & Safety Equip	\$2.59
				Harbor Freight-Blue Tarp, Swing-Back Trailer	
		001-000-270-576-80-35-00		Small Tools & Safety Equip	\$1.40
				Harbor Freight-Swivel Vice w/Anvil, Return/Exchange	
		001-000-270-576-80-48-01		Parks Shrd Rep & Mtc Shops	\$4.62
				Wal-Mart-Latch Boxes, Vehicle Cleaning Supplies	
		001-000-280-536-20-32-00		Fuel	\$1.30
				Millennium Petroleum Group-Fuel for PW Vehicle	
		001-000-280-536-20-35-00		Small Tools & Safety Equip	\$0.63
				Harbor Freight-Blue Tarp, Swing-Back Trailer	
		001-000-280-536-20-35-00		Small Tools & Safety Equip	\$1.37
				Harbor Freight-Screwdriver Set, Swivel Vice w/Anvil, Nonslip Tape	
		001-000-280-536-20-35-00		Small Tools & Safety Equip	\$0.36
				Harbor Freight-Swivel Vice w/Anvil, Return/Exchange	
		001-000-280-536-20-35-00		Small Tools & Safety Equip	\$1.12
				Harbor Freight-Sheet Metal Screws, Parts Holder, Flashlights, Tape	
		001-000-280-536-20-48-01		Ceme Shrd Mtc. & Rep. Shops	\$1.15
				Wal-Mart-Latch Boxes, Vehicle Cleaning Supplies	
		001-000-000-543-33-48-02		Street Share-Shop Costs	\$8.66
				Wal-Mart-Latch Boxes, Vehicle Cleaning Supplies	
		001-000-000-543-50-32-00		Fuel	\$9.77
				Millennium Petroleum Group-Fuel for PW Vehicle	
		001-000-000-543-50-35-00		Small Tools & Equipment	\$10.25
				Harbor Freight-Screwdriver Set, Swivel Vice w/Anvil, Nonslip Tape	
		001-000-000-543-50-35-00		Small Tools & Equipment	\$2.62
				Harbor Freight-Swivel Vice w/Anvil, Return/Exchange	

Vendor	Number	Reference	Account Number	Description	Amount
	101-000-000-543-50-35-00			Small Tools & Equipment	\$8.40
	101-000-000-543-50-35-00			Harbor Freight-Sheet Metal Screws, Parts Holder, Flashlights, Tape	
				Small Tools & Equipment	\$4.86
	401-000-000-534-80-32-00			Harbor Freight-Blue Tarp, Swing-Back Trailer	
				Fuel	\$16.28
	401-000-000-534-80-35-00			Millennium Petroleum Group-Fuel for PW Vehicle	
				Small Tools & Safety Equip	\$13.99
	401-000-000-534-80-35-00			Harbor Freight-Sheet Metal Screws, Parts Holder, Flashlights, Tape	
				Small Tools & Safety Equip	\$17.07
	401-000-000-534-80-35-00			Harbor Freight-Screwdriver Set, Swivel Vice w/Anvil, Nonslip Tape	
				Small Tools & Safety Equip	\$8.10
	401-000-000-534-80-35-00			Harbor Freight-Blue Tarp, Swing-Back Trailer	
				Small Tools & Safety Equip	\$4.37
	401-000-000-534-80-48-01			Harbor Freight-Swivel Vice w/Anvil, Return/Exchange	
				Repair & Maint Shops	\$14.42
	407-000-000-535-80-32-00			Wal-Mart-Latch Boxes, Vehicle Cleaning Supplies	
				Fuel	\$16.28
	407-000-000-535-80-35-00			Millennium Petroleum Group-Fuel for PW Vehicle	
				Small Tools & Safety Equipment	\$8.10
	407-000-000-535-80-35-00			Harbor Freight-Blue Tarp, Swing-Back Trailer	
				Small Tools & Safety Equipment	\$17.09
	407-000-000-535-80-35-00			Harbor Freight-Screwdriver Set, Swivel Vice w/Anvil, Nonslip Tape	
				Small Tools & Safety Equipment	\$13.99
	407-000-000-535-80-35-00			Harbor Freight-Sheet Metal Screws, Parts Holder, Flashlights, Tape	
				Small Tools & Safety Equipment	\$4.37
	407-000-000-535-80-48-00			Harbor Freight-Swivel Vice w/Anvil, Return/Exchange	
				Sewer Infl. Repair & Maintenance	\$14.43
	410-000-000-531-10-32-00			Wal-Mart-Latch Boxes, Vehicle Cleaning Supplies	
				Fuel	\$16.28
	410-000-000-531-10-35-00			Millennium Petroleum Group-Fuel for PW Vehicle	
				Small Tools and Safety Equipment	\$8.10
	410-000-000-531-10-35-00			Harbor Freight-Blue Tarp, Swing-Back Trailer	
				Small Tools and Safety Equipment	\$4.37
	410-000-000-531-10-35-00			Harbor Freight-Swivel Vice w/Anvil, Return/Exchange	
				Small Tools and Safety Equipment	\$13.99
	410-000-000-531-10-35-00			Harbor Freight-Sheet Metal Screws, Parts Holder, Flashlights, Tape	
				Small Tools and Safety Equipment	\$17.09
	410-000-000-531-10-48-02			Harbor Freight-Screwdriver Set, Swivel Vice w/Anvil, Nonslip Tape	
				Repair & Maint Shops	\$14.43
	410-000-000-531-10-48-02			Wal-Mart-Latch Boxes, Vehicle Cleaning Supplies	
				Vehicle Cleaning Supplies	\$297.01
					\$3,342.69
					\$3,342.69

Total 9871 Espring
Total EFT Payment 4/27/2016 12:11:24 PM - 1
Total First Bankcard

Execution Time: 23 second(s)

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Voucher Directory

Vendor	Number	Reference	Account Number	Description	Amount
Judicial Conference Registrar	43433	04152016 JCR	001-000-120-512-50-49-01	2016 - May - Pre-Council May 1st Council Training	\$130.00
				Court-DMCA Conference Registration Fee for S Metcalf	\$130.00
				Total 04152016 JCR	\$130.00
Total Judicial Conference Registrar	Total 43433				\$130.00
Petty Cash Custodian	43434	41516 PCC		2016 - May - Pre-Council May 1st Council	
				Replenish Petty Cash	\$21.50
				001-000-000-369-81-00-00 Cash Over/Short	
				Admin-Cash Drawer	\$44.62
				001-000-000-369-81-00-00 Cash Over/Short	
				Admin-Cash Drawer	\$40.00
				001-000-000-369-81-00-00 Cash Over/Short	
				Admin-Cash Drawer	\$6.00
				001-000-137-514-21-43-00 Lodging, Meals & Mileage	
				City Clerk-Toll BRidge for Meeting	\$0.29
				001-000-180-518-90-42-00 Postage	
				Admin-Postage	
				Total 41516 PCC	\$112.41
Total Petty Cash Custodian	Total 43434				\$112.41
Grand Total		Vendor Count	4		\$112.41
					\$3,855.57

Vendor	Number	Reference	Account Number	Description	Amount
Total CenturyLink (AZ)	Total 43439	Total 1372218801	Act 3608862560		\$59.10
CHS/Cenex	43440	033116 128275	2016 - May - 1st Council		\$59.10
			March Fuel		\$1,559.05
			001-000-210-521-10-32-00	Fuel	
			Police		\$1,559.05
Total CHS/Cenex	Total 43440	Total 033116 128275			\$1,559.05
City of Enumclaw	43441	04694	2016 - May - 1st Council		\$1,559.05
			March Jail Services		\$60.00
			001-000-211-523-60-49-00	Jail Costs	
			Police-1 Jail Bed at 60 per day		\$60.00
Total City of Enumclaw	Total 43441	Total 04694			\$60.00
City of Milton	43442	660	2016 - May - 1st Council		\$60.00
			March Services		\$2,316.25
			001-000-145-518-80-41-01	Inf. Tec. Svs. - Milton	
			001-000-248-518-20-49-12	Technology Costs	\$547.48
			101-000-000-543-30-49-12	Technology-Sys, Sec. Email, SW, Etc	\$84.23
			401-000-000-534-80-49-12	Tech-Sys, Sec. Email, Sw, Etc	\$421.14
			407-000-000-535-80-49-12	Tech-Sys, Sec. Email, SW, etc.	\$421.14
			410-000-000-531-10-49-12	Tech-Sys, Sec. Email, SW, Etc.	\$421.14
Total City of Milton	Total 43442	Total 660			\$4,211.38
					\$4,211.38
					\$4,211.38

Vendor	Number	Reference	Account Number	Description	Amount
	Total 2570563			Gym-3M Hi-Strength Adhesive Spray	\$42.64
	7563511				
		March Purchase			
		001-000-215-521-14-31-00		2016 Marine Grt-Supplies	\$65.13
				Marine-Black & Decker Charger	
	Total 7563511				\$65.13
	7563512				
		March Purchase			
		001-000-270-576-80-48-01		Parks Shrd Rep & Mtc Shops	\$4.95
				PW Shop-Security Wall Mount, Garage Door opener	
		001-000-280-536-20-48-01		Ceme Shrd Mtc. & Rep. Shops	\$1.24
				PW Shop-Security Wall Mount, Garage Door opener	
		101-000-000-543-33-48-02		Street Share-Shop Costs	\$9.28
				PW Shop-Security Wall Mount, Garage Door opener	
		401-000-000-534-80-48-01		Repair & Maint Shops	\$15.46
				PW Shop-Security Wall Mount, Garage Door opener	
		407-000-000-535-80-48-00		Sewer Infil. Repair & Maintenance	\$15.46
				PW Shop-Security Wall Mount, Garage Door opener	
		410-000-000-531-10-48-02		Repair & Maint Shops	\$15.46
				PW Shop-Security Wall Mount, Garage Door opener	
	Total 7563512				\$61.85
	7581504				
		March Purchase			
		402-000-003-594-34-63-06		Springs/Task 3	\$421.77
				Task #3-Transfer Pump, Extension Cord	
	Total 7581504				\$421.77
	8570847				
		March Purchase			
		001-000-270-576-80-48-02		Parks Maintenance Repairs	\$40.31
				Parks-Moss Out Lawn Granules	
	Total 8570847				\$40.31
	8582056				
		March Purchase			
		001-000-270-575-51-48-00		Gym Facility Repair & Maintenance	\$76.28
				Gym-Texture Dots, Light Bulbs	
	Total 8582056				\$76.28
	Total 43445				\$796.22
	Total Home Depot Credit Service				\$796.22

Execution Time: 15 second(s)

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Voucher Directory

Vendor	Number	Reference	Account Number	Description	Amount	
Intercom Language Services	43446	16-439				
				2016 - May - 1st Council		
				April Services		
			001-000-120-512-50-41-04	Court Interpreter	\$110.00	
				BDD0504923, 5Z0695661, 6Z0156144 and 5Z0424555		
				Total 16-439	\$110.00	
Total 43446					\$110.00	
Total Intercom Language Services					\$110.00	
Jason Pittam	43447	041416 JP				
				2016 - May - 1st Council		
				001-000-270-576-80-49-00	Miscellaneous	\$7.92
				PW Shared-Jason Pittman, DOT Physical		
				001-000-280-536-20-49-00	Miscellaneous	\$1.98
				PW Shared-Jason Pittman, DOT Physical		
				101-000-000-542-90-49-00	Miscellaneous	\$14.85
				PW Shared-Jason Pittman, DOT Physical		
				401-000-000-534-80-49-01	Miscellaneous	\$24.75
				PW Shared-Jason Pittman, DOT Physical		
				407-000-000-535-80-49-04	Miscellaneous	\$24.75
				PW Shared-Jason Pittman, DOT Physical		
				410-000-000-531-10-49-00	Miscellaneous	\$24.75
				PW Shared-Jason Pittman, DOT Physical		
				Total 041416 JP	\$99.00	
Total 43447					\$99.00	
Total Jason Pittam					\$99.00	
Jeffrey Potter	43448	031416 JP				
				2016 - May - 1st Council		
				410-000-000-343-83-00-00	Stormwater Charges	\$16.00
				Overpaymet Refund-Act 3998.0		
				Total 031416 JP	\$16.00	
Total 43448					\$16.00	
Total Jeffrey Potter					\$16.00	
Johnsons Home & Garden	43449	404222				
				2016 - May - 1st Council		
				April Purchase		
				001-000-270-576-80-31-01	Parks Office Supplies	\$4.92
				PW-Trash Bags, Gas Can, Eye Protection Glasses		
				001-000-280-536-20-31-00	Cemetery Office Supplies	\$2.45
				PW-Trash Bags, Gas Can, Eye Protection Glasses		

Vendor	Number	Reference	Account Number	Description	Amount	
King County Finance I-Net	43452	11004427		2016 - May - 1st Council		
			March Services		\$375.00	
			001-000-214-521-20-42-01	Police Comm KC I-Net	\$375.00	
					\$375.00	
Total 43452		Total 11004427			\$375.00	
Total King County Finance I-Net						
Legend Data Systems, Inc.	43453	111171		2016 - May - 1st Council		
			001-000-240-558-51-31-00	Office & Operating Supplies	\$16.43	
				CD Permitting-ID Card for Building Official, W Hill	\$16.43	
					\$16.43	
Total 43453		Total 111171			\$16.43	
Total Legend Data Systems, Inc.						
Melanie Thomas Dane	43454	043016		2016 - May - 1st Council		
			May Services		\$2,000.00	
			001-000-120-512-50-41-00	Court Judge	\$2,000.00	
					\$2,000.00	
Total 43454		Total 043016			\$2,000.00	
Total Melanie Thomas Dane						
Mike's Auto Body	43455	02715		2016 - May - 1st Council		
			April Service		\$584.27	
			001-000-210-521-10-48-01	Vehicle Maintenance & Repair	\$584.27	
				Police-Left Fender Repairs	\$584.27	
					\$584.27	
Total 43455		Total 02715			\$584.27	
Total Mike's Auto Body						
Office Products Nationwide	43456	838186-0		2016 - May - 1st Council		
			001-000-180-518-90-31-00	Office Supplies City Hall	\$77.20	
				City Hall-Office Supplies	\$77.20	
					\$77.20	
Total 43456		Total 838186-0			\$77.20	
		839514-0		001-000-120-512-50-31-00	Operating Supplies	\$188.93
					\$188.93	

Execution Time: 16 second(s)

Vendor	Number	Reference	Account Number	Description	Amount
Total Office Products Nationwide	Total 43456	Total 839514-0		Court-Office Supplies	\$188.93
OMG National	43457	N1029074		2016 - May - 1st Council	\$266.13
			001-000-210-521-10-31-00	Operating Supplies	\$140.00
				Police-Printing Stickers For Community Outreach	\$140.00
Total OMG National	Total 43457	Total N1029074			\$140.00
Parametrix, Inc.	43458	01--76828		2016 - May - 1st Council	\$140.00
				February 28 to April 2, 2016 Services	\$1,310.58
			001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	\$377.50
				Roberts Drive Design	
			320-000-020-595-10-63-00	Roberts Dr Rehab-Eng.	\$1,688.08
				Roberts Drive Design	
Total 01--76828	01--76829				\$2,060.16
				February 28 to April 2, 2016 Services	\$2,060.16
			001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	
				The Villages-PH1A	
Total 01--76829	01--76830				\$3,024.89
				February 28 to April 2, 2016 Services	\$3,024.89
			001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	
				Rock Creek Water Main	
Total 01--76830	01--76831				\$767.50
				February 28 to April 2, 2016 Services	\$7,540.63
			320-000-023-595-30-63-00	Jones Lake Overlay-Grant Exp	\$7,540.63
				On Call-Jones Lake Road Review	
Total 01--76831					\$7,540.63
Total Parametrix, Inc.	Total 43458				\$7,540.63

Vendor	Number	Reference	Account Number	Description	Amount
Randy Justice	43459	041416 RJ		2016 - May - 1st Council	
			April Services		\$300.00
			410-000-000-531-10-48-03	Stormwater Maintenance & Repair	\$300.00
			Storm Water Management		\$300.00
		Total 041416 RJ			\$300.00
Total Randy Justice	Total 43459				
Regional Animal Services of King County	43460	040116		2016 - May - 1st Council	
			April Pet License Renewals		\$45.00
			633-000-000-589-00-00-01	King County Animal License	\$45.00
		Total 040116			\$45.00
		042216		April Pet License Renewals	\$90.00
			633-000-000-589-00-00-01	King County Animal License	\$135.00
		Total 042216			\$135.00
Total Regional Animal Services of King County	Total 43460				
RH2 Engineering Inc.	43461	64810		2016 - May - 1st Council	
			Services Through March 27, 2016		\$20,989.04
			001-000-257-558-70-41-02	MDRT Civil Engineering-RH2 Engineering	\$20,989.04
			Master Development Review Team		\$20,989.04
		Total 64810			\$20,989.04
Total RH2 Engineering Inc.	Total 43461				
Russell Cahill	43462	041116 RC		2016 - May - 1st Council	
			PLN15-0044- Diamond Ridge		\$613.00
			001-000-240-345-89-99-20	Pass thru Consultant-Deposits	\$613.00
			Refund of Deposit for Review of Final Plat Survey Map		\$613.00
		Total 041116 RC			\$613.00
Total Russell Cahill	Total 43462				
Sorci Family LLC	43463	041216 SFLLC		2016 - May - 1st Council	
			2015 Storm Charges		\$207.82
			001-000-248-518-20-47-00	MDRT Electricity	\$207.82

Execution Time: 16 second(s)

Vendor	Number	Reference	Account Number	Description	Amount
Total 43466		Total L113868			(\$431.25)
Total State Auditor Office			410-000-000-531-10-41-02	State Auditor Services	(\$1,875.00)
Summit Law Group	43467				\$312.85
					\$312.85
		78662, 78663		2016 - May - 1st Council	
				March Services	
			001-000-150-515-30-41-08	Legal Svcs-Union Contracts	\$802.62
			001-000-257-558-70-41-00	MDRT Legal Services	\$76.44
			101-000-000-543-30-41-05	Legal Costs	\$50.96
			101-000-000-543-30-41-05	Legal Costs	\$108.11
			401-000-000-534-80-41-04	Legal Svcs	\$114.66
			401-000-000-534-80-41-04	Legal Svcs	\$108.13
			407-000-000-535-80-41-09	Legal Costs	\$114.66
			407-000-000-535-80-41-09	Legal Costs	\$108.13
			410-000-000-531-10-41-01	Legal Costs	\$108.13
			410-000-000-531-10-41-01	Legal Costs	\$114.66
Total 43467		Total 78662, 78663			\$1,706.50
Total Summit Law Group					\$1,706.50
Valley Communications	43468			2016 - May - 1st Council	\$1,706.50
				March Services	
		0016586			
			001-000-214-521-20-41-00	Valley Comm - Dispatch Service	\$11,442.98
					\$11,442.98
		Total 0016586			\$11,442.98
		0016601			
			001-000-214-521-20-41-02	Quarter 1 WSP Access Billing	\$574.01
				Valley Comm - Access Charge	\$574.01
					\$12,016.99
		Total 0016601			\$12,016.99
Total 43468					\$12,016.99
Total Valley Communications					\$12,016.99

Vendor	Number	Reference	Account Number	Description	Amount
WA State Department of Corrections					
43469		0316-1-16-KCWC-HQ		2016 - May - 1st Council	
		March 2016			
		001-000-211-523-60-49-04		Work Crew Costs-State Exp	\$45.00
				3 Worker Days in March	
		Total 0316-1-16-KCWC-HQ			\$45.00
Total WA State Department of Corrections					
Washington Department of Fish & Wildlife					
43470		APP ID 6151		2016 - May - 1st Council	
		410-000-000-531-10-48-03		Stormwater Maintenance & Repair	\$150.00
				Standard HPA Application Fee	
		Total APP ID 6151			\$150.00
Total Washington Department of Fish & Wildlife					
Washington State Patrol					
43471		116006947		2016 - May - 1st Council	
		March Services			
		633-000-000-586-00-00-06		Due to WSP-FBI Fingerprinting-Background	\$88.50
				FPIID and GL	
		Total 116006947			\$88.50
Total Washington State Patrol					
William & Suzanne Cadden					
43472		031416		2016 - May - 1st Council	
		410-000-000-343-83-00-00		Stormwater Charges	\$16.00
				Overpayment Refund-Act 3933.0	
		Total 031416			\$16.00
Total William & Suzanne Cadden					
Yakima County Dept. of Corrections					
43473		040416 YCDC		2016 - May - 1st Council	
		March Jail Services			
		001-000-211-523-60-49-00		Jail Costs	\$54.75
				1 Inmate Day	
		Total 040416 YCDC			\$54.75
Total Yakima County Dept. of Corrections					
Grand Total					
		Vendor Count		38	\$65,050.96

Execution Time: 16 second(s)

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BLACK DIAMOND CITY COUNCIL MINUTES

March 17, 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; Andy Williamson, MDRT Director; Jamey Kiblinger, Police Chief; Barbara Kincaid, Community Development Director; Brian Martinez, Police Commander; Dan Dal Santo, Utility Superintendent; Debbie McGraw, Police Records Manager; Carol Morris, City Attorney and Meri Jane Bohn, Deputy City Clerk.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

CONSENT AGENDA:

Mayor said she would accept a motion for the consent agenda. A motion was made by Councilmember Edelman and seconded by Councilmember Deady. Mayor asked if any further discussion.

Councilmember Weber commented to make an amended motion to pull consent agenda items number one - Claims Checks and item number three - Minutes. He stated the Budget/Finance/Administration Committee met on Monday and had a detailed briefing. We reviewed the Black Diamond Code 3.23 which is payments of city claims or obligations and Ordinance 08-850. The ordinance that was adopted in 2008 authorized the Mayor to pay claims before Council approval as long as four conditions have been met. One of those conditions requires council to adopt "contracting, hiring, purchasing, dispersing policies that implement effective internal controls".

Mayor Benson stated the City already has those.

Councilmember Weber stated the committee hasn't found any record that the Council did that. So he will be requesting that the staff provides any information about the conditions required by Ordinance 08-850.

Mayor Benson asked Councilmember Weber to put that in writing to her.

Councilmember Weber said the committee also reviewed the State Auditor's BAR Manual which stands for the Budgeting, Accounting and Reporting system. For information about vouchers and internal controls.....

Mayor Benson stated this is not under Councilmember Weber's purview. She stated that he is legislative, not administrative.

Councilmember Morgan stated Point of Order.

Councilmember Edelman stated and her point is....

Councilmember Morgan stated the Chairman is not to involve herself in argument at the Council meeting.

Councilmember Weber stated he still has the floor.

Councilmember Edelman asked Councilmember Weber who wrote all of his notes for him.

Councilmember Weber stated he wrote his own notes after his meeting. He continued on stating he assumes all the vouchers have already been paid, and would like to know if staff can verify that.

Councilmember Deady said she doesn't understand when the Mayor can answer and when can she not. She stated Councilmember Weber just looked at the Mayor and rolled his eyes.

Councilmember Weber stated he just looked at the audience and did not see Ms. Miller (Finance Director) so he looked to the Mayor.

Mayor Benson asked why Ms. Miller would be at this meeting tonight, she wasn't requested to be here and has nothing to present.

Councilmember Weber asked if the Mayor could answer his question.

Mayor Benson stated she assumed that all the vouchers have been paid as it has been the standard procedure. She also said she heard Mr. Derdowski ask if he could write those questions up for him.

Councilmember Weber said he has comments from Mr. Derdowski that he's gone through and rewritten that are not from Mr. Derdowski. He said there is time to be able to review

the original documents suggested by the state auditor. He also has concerns about a \$10,000 voucher to DKS Associates.

Mayor Benson stated she gave an answer for that concern and it was not even mentioned at the meeting.

Councilmember Weber said it was talked about quite extensively at their Committee meeting and the voucher appears to be a settlement to a contract dispute for DKS. In his opinion this would require contract amendment to be approved by the Council.

Mayor Benson stated it's not a contract amendment. It was part of the Comprehensive Plan amendments; it is not an amendment to the contract.

Councilmember Weber stated his amended motion still stands and it should be pulled and sent to the Budget, Finance and Administration Committee.

Mayor Benson stated that is swell, nothing has come out of any of those committees.

Councilmember Edelman stated this is outrageous and read into the record her written comments that are attached and incorporated into the minutes.

Councilmember Pepper would like to point the Councilmembers to 6.3 about courtesy in discussion, comments or debate of any matter or issue. All speakers including the presiding officer and Councilmembers shall be courteous in their language and deportment. They shall not discuss or comment on personalities or indulge in derogatory remarks or make insinuations about any other Councilmember or any member of the staff or public but shall at all times confine their remarks only to those facts which are germane and relevant to the question or matter under discussion.

Councilmember Edelman stated her words stand.

Councilmember Morgan said one thing that comes up repeatedly that she has been told by her Mayor is not to speak with any staff member on any items. She sent an email copying some city staff on it asking to have permission at some convenient time to speak with staff members on certain subjects. In return she gets a nasty gram back stating from the Mayor you may not contact the staff.

Mayor Benson said when she answers those emails she states that the Council need to go through her to visit with staff. Mayor Benson said Councilmember Morgan has never asked to visit with staff.

Councilmember Morgan says she has asked to speak with staff and it stands as she said it.

Councilmember Deady asked if Councilmember Morgan would forward her the emails regarding what the Mayor wrote. If we are going to talk about what municipalities do then she knows at the City of Auburn the Council needs to send an email directly to the Mayor

to speak with any staff members and then the Mayor sends that email on to the staff that he/she feels is appropriate to answer the question. Before all this chaos started happening at the City, Council was able to go down and talk to staff directly. It is not out of the ordinary to have council do this process involving the Mayor, but it is out of the ordinary for this Council because in the past we never had to do that but we are doing it now. All of the Council got an email from the Mayor stating if you would like to speak with staff you need to Cc: her first. Council can get items from staff that helps on agenda items but cannot direct them and tell staff what to do.

Councilmember Deady stated she also spoke with Peter Rimpos and Cindy Proctor about the workstudies. They both stated that for a workstudy Kristen Bryant would never let that happen. The reason is because they don't want three of the Councilmembers to talk with staff. They also don't want them to listen to the lawyer. They don't want them to be influenced. The only way to have a workstudy is if Kristen Bryant was allowed at the table and involved in the discussion. Councilmember Deady says she finds that really disturbing because the three Councilmembers might get influenced by staff. It is ridiculous, all the council has a right to speak with staff, and all of them have a right to get the information. If they think the information is wrong then they can go to MSRC or call the lawyer. Give it to Brian Derdowski and Kristen Bryant and they can do their research as well. Speak with staff, they are not evil and have a lot of information so go there and talk to them.

Councilmember Morgan said read her emails when she sends them to Councilmember Deady.

Councilmember Weber stated he has not even talked to the State Auditor yet. He made a suggestion at the meeting for them to come. As far as workstudies go he would like to see more public participation and engagement with the public. The thing with the workstudy is there is no public participation. They sit around the table with staff and get briefed but there is no public input or no comment. The only time in the past for comment was if public attended a City Council meeting where things have almost been put through.

Councilmember Deady asked if Councilmember Weber has ever been to a workstudy in the past before he was on Council.

Councilmember Weber stated he has been to them.

Councilmember Deady said they have always allowed Kristen Bryant, Peter Rimpos or whoever to come up to the table and comment. He can go back and listen to audio and find that they did open up the meeting to public comment. There might be one or two times that they didn't, but generally they did.

Councilmember Weber said that is fine, generally his understanding that at a workstudy that unless the rules are suspended that the public does not have input. He has listened and he has been to workstudies in the past that people have come in and commented. He was at a workstudy when Mr. Derdowski had come in and sat at the table, the same guy that everyone is trying to throw under the bus. He has talked with staff. His day to day job is a full time Engineer, he doesn't have the luxury to come in and visit with staff so that is

why he uses email. So when he gets short little tidbits of information back then he will keep questioning. He stated he also did this on the Planning Commission. As far as being a Save Black Diamond Councilmember as what he so eloquently has been described as lately last time he checked his name was a Black Diamond City Council member, it does not say Save Black Diamond Councilmember he represents everybody. He asked did everybody vote for him. No. Did a good majority? Yes. Were they all Save Black Diamond volunteers or people? No.

Councilmember Deady said every time Councilmember Weber does talk about the majority of people voting for him, it was the Save Black Diamond people and that they want reform and they want this and that is what he is here for. She wants to know if he can explain the difference of when he speaks like that and that he is not a Save Black Diamond person.

Councilmember Weber stated he can agree with Save Black Diamond guys. It's as simple as that.

Councilmember Edelman and Mayor Benson asked do you have an answer what reform means.

Councilmember Weber stated they have been trying to reform.

Councilmember Edelman said she wants to apologize to all tonight as she says this is all just ridiculous. The reason the Council had requested to have no public participation during the workstudies during the current workstudies with the Joint Planning Commission meetings is because there is fourteen people. The idea is to get the Council and Planning Commission up to speed on the Comp plan changes. To have public input at that point is a detriment to everybody. They are going to have lots of opportunities for public input. That is just not the place because there is already too many people trying to figure out what they are talking and what the changes are going to be. That was not intended to discourage public participation. It has to do with two different groups of people getting together and trying to get up to speed. She will say that there have been a lot of folks that have been invited to sit at the table during the meeting. Peter Rimbo is a great example and has been at many tables with them explaining his traffic concurrency ideas. They are not shutting people out by any stretch of the imagination. They are just being realistic and trying to get things done on a timely manner because they are already losing Grants because the Comp Plan is not finished.

Mayor Benson said there's a motion and a second on the table.

Councilmember Deady asked if the motion is also for removing the minutes and would like to know why they want the minutes removed.

Councilmember Weber said at this time he is not ready to give a statement on the minutes. He is asking that the minutes be moved to the next regular Council meeting.

Councilmember Deady said she disagrees and their needs to be a reason and a good reason to not pass the minutes. Can he let the public know or give all the Council what he doesn't like about them?

Councilmember Weber stated when he comes up with his full list he will send it to Councilmember Deady.

Councilmember Deady said generally Councilmember Weber needs to come prepared and the purpose or reasons why he wants to pull the minutes.

Councilmember Weber stated he does come prepared.

Councilmember Deady said she is going to vote no because she has no reason not to pass them.

Councilmember Weber stated that is Councilmember Deady's prerogative and his statement stands.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to approve payroll but pull the Consent Agenda items 1) Claim Checks & 3) Minutes. Motion **passed** with voting in favor (3-2 Deady, Edelman). The Consent Agenda was approved as follows:

2) **Payroll** - February, 2016 - No. 18778 through No. 18798 and ACH payment in the amount of \$261,386.84

PUBLIC COMMENTS:

Bill McDermand, Black Diamond - stated he was thinking about the last Council meeting he attended and observed that the Chair spoke quite a bit. He checked the rules and found that is quite inappropriate to engage that way. He said another thing he heard that was very refreshing tonight was an apology. He assumes that it was an apology given from the Mayor, Councilmember Deady and Councilmember Edelman for their outrageous behavior. A while back he observed that Councilmember Edelman and her husband were sitting in the second row and Maryanne and he were sitting in the third row comments were made.....

Councilmember Deady called Point of Order she stated Councilmember Pepper just blasted Councilmember Edelman saying not to point people out.

Councilmember Pepper said public comments are supposed to be to the entire Council and not individual members.

Bill McDermand continued with his comment and said they were very inappropriate with a lot of yelling to be had while exiting with Councilmember Goodwin. It was very inappropriate then and it is now the way she comes down on people all the time.

Councilmember Edelman and Councilmember Pepper called Point of Order on personal attacks. Councilmember Pepper said the public does have the right to comment but the public should comment to the Council as a whole, not to individuals on the Council.

Bill McDermand stated he understands that, however on the other hand he said it is not fair to the public sitting out there or listening in the newspapers about all the haggling that is going on. This has been going on now since December when Councilmember Weber came in and now it is just one thing after another. It has become one of the most unpleasant things there is. Mayor Benson stated his speaking time is up. He asked for more time.

Councilmember Morgan stated she thinks there are a lot of people in the room and commented the meeting is far off the agenda. If people would like to individually speak to Councilmembers they have email addresses on the website.

Bob Edelman, Black Diamond - Stated Council just went through the Kabuki dance on the consent agenda and he thinks there was a problem there that Roberts Rule of Order was not followed. Council needs an experienced Parliamentarian and under the new rules unfortunately the City Attorney is no longer the Parliamentarian. She is probably the only experienced person here. What should be done on the consent agenda if any member wants an item removed from the consent agenda they should say they want that item removed. That item is then debated separately. They don't remove and throw it away, they debate it separately. Council wanted to remove two items from the consent agenda then they go ahead and make the motion for the consent agenda to be approved. After it is approved then they debate those two items that become part of the regular agenda. Another item that has been said over and over again is that it is the Council meeting not the Mayor. He thinks Council needs to read the very first sentence of RCW 35A.12.110 and that should settle it.

Bill Bryant, Black Diamond - Said he has lived here his whole life along with his family. He finds what is going on really not helpful to the City. He wants to read some things he has thought of and thought over. Four months ago they got a new elected City Council and they pledged to reform City Hall. The reforming in his mind is making the city stay rural somewhat. If they keep going the way they are it is going to be houses stacked on top of each other and traffic stacked on traffic. The Roberts Drive road right now is so heavily traveled with dump trucks that there's mud holes deep along Roberts Drive. In the morning all he used to hear was cars go by and all he hears now is dump trucks and lots of diesel smoke that he smells in his house now. He doesn't mean to be speaking against anyone but this City Council here has spent \$5,800 in Lawyer fees fighting amongst themselves. Why is that necessary? He thinks the City Council should be listening more to Save the Black Diamond people because they want to keep the town as rural as possible. He knows it is going to grow in the next hundred years if it doesn't die first. He is for Save

Black Diamond and he knows that when the new council was voted in that not all the Save Black Diamond people voted for them. There was other people who voted for them too, but would never come to this meeting. He thinks they should respect the wishes of what the main bunch of people want and not something else that council has dreamed up. What he can say is please help keep Black Diamond rural instead of fighting against themselves.

Robbin Taylor, Black Diamond – She wanted to comment on the Town Hall meeting that was last week. She was very disappointed that the Comprehensive Plan took up the whole meeting. Town Hall meetings were started so citizens could talk and dialogue with Council and Council could dialogue back as a whole. Unfortunately the entire Council violated the Open Public Meetings Act (OPMA) because they did not follow the agenda. The meeting was adjourned at 8:30 and there was no opportunity for citizens to speak which was item number two on the agenda. She was greatly disappointed because she can fill up ten minutes. Mr. Bryant is constantly coming up and saying the Council needs to do what the citizens want and the citizens want it rural. The reason why Mr. Bryant and other citizens have that idea is because....

Councilmember Edelman stated Point of Order: There needs to be consistency so please refer to as a citizen, don't use people's names.

Robbin Taylor continued saying the reason why many citizens voted the way they did was because they continue to get mailings during the election season that says the city can still stop development. There is a group in town that continues to send these out during election cycle to get their members on the Council. She is hoping that the new Council members shine will soon wear off as construction continues out West of town. This group in town will soon learn that even their people are not willing to stop it, and she is hoping that takes effect before too long and will move forward. It isn't that the Council doesn't want it rural because the Council does want it rural; the Council wants it small, not small, the city needs growth. Everyone on the council at one time or another testified against the Master Planned Development (MPD). It is what it is, the Council prior to this one voted it in and it is a done deal. Until people understand that it is continuing out there, and stops paying attention to those mailings that are being sent out there and spreading untruths about what the council can do, people are still going to be disappointed.

Judy Carrier, Auburn – She agrees with Robbin Taylor. She was not able to make the Town Hall meeting but she was interested to go and she had prepared some dialogue herself but she wasn't able to give that. She said she often speaks for Save Black Diamond and identifies herself as Save Black Diamond but she is just speaking for herself and off the cuff. She wants to tell a joke and there is a point, so please don't shout her down.

(There was a gal at Christmas time got a jigsaw puzzle, a big one a thousand pieces. She loved jigsaw puzzles and worked on that jigsaw puzzle for months and had it all spread out on the card table sitting in the middle of her living room for a long time. She finally finished it and was really pleased with herself. She went to everyone in the family and said look I finally finished that puzzle and I am so proud of myself. She said I must be pretty smart because look here you see on the side of the box it says for three to five years and I did it in only three and a half months.)

Her point is she may have used assumptions about how that puzzle was to be done. She may have made assumptions about what it meant on the side of the box. Or she interpreted it differently because she didn't total understand.

She is also disappointed at what is happening. She doesn't have a way to give tons of RCW's or MRSC's and a lot of the other things that have been looked at for a long time. She thinks there is a great deal of value with the three members who yes are Save Black Diamond if you want to look at it that way. They are council members now and she knows many of them not closely but they are great people to have on the Council as are the other Council members and our Mayor. She agrees with the people who have been speaking that we need to get going with what the real work is. There are some assumptions, different interpretations, legal and among each other and communication is really lousy. She thinks council should give each other a chance.

Brian Derdowski, Issaquah – stated it was a beautiful drive from Issaquah driving towards Black Diamond. He got to thinking about perspective and what is really important. When he thinks about what is happening here it is very understandable and predictable. This happens thousands and thousands of times. New people get elected, there is a new majority, and they want to do things differently. The people that were there become defensive and say everything was great and there is a tuffle and that works itself out. There is equilibrium and they move on. In the corporate world it tends to be a bit more brutal. New people come in and they fire people and turn everything over. There is a cleansing effect with new people coming in with new energy, challenging everybody. That is how the system is supposed to work and council is doing it. Unfortunately there is way too much friction and when you get right down to it all of this is about two things. The new Council members believe that the Council has the right to set its own agenda on its own. With input from the Mayor but they get to decide. The Mayor believes she has the right to decide what the agenda is. The second issue that has blown all this up is that the new Council believes they should have meetings in the evenings. There should be three members and they should run it just like a Council meeting and advertise it that way. The folks that were on Council before, weather they believe it now or not they came to believe that it is illegal. That is really a legal issue and he said he is not an attorney but every attorney he has talked to on this subject and every expert, every single one has told me if you do it correctly, you can do it. And in fact the King County does it, the City of Seattle and City of Spokane does to. When you get right down to it that is what this is all about. So his message to Council is this, think about the sunset and the mountain, think about the fact that he suspects that every one of the Council is trying to do the right thing. He suspects every one of the Council want to make Black Diamond a better place. He thinks the staff is working their tails off and they want to get to work and keep doing it. And he thinks well-meaning and intelligent people from the public want to participate.

Matthew House, Teamster Local Union 117 – said he is a representative of the Union. He came here today to speak to the effects of this Council is having to the rights, morale and productivity of his members in Black Diamond. His members are organized and collective voice by joining Teamsters 117 in the summer of 2014. A primary reason for organizing was so they could be heard and their interest be protected in the midst of political turmoil that put them in the middle or at a minimum caused a tense and sometimes hostile work

environment. It appears this has happened again. His biggest concern right now is a Grievance pending because it appears that there is a volunteer staff members being assigned by some of the Council members to do our Collective Bargaining Unit work here at the city. Some of that work includes some of the job description of his members, providing professional advice to the City Council, making presentations to the Council, preparing and presenting a variety of studies, reports and related information for decision making purposes, serve as a liaison to the business community and specific organizations and prepare or present oral written presentations for the Council. There has been multiple members that he has listened to the audio the last few Council meetings of folks being referred to as volunteer staff members that are presenting reports and at times speaking for long periods of times. He did not time them but it seems like more than half an hour on certain issues. So the short of it this is taking away his members right to their work and certified by Pert. This undermines the operation of the City, impeding the ability of City staff and his members to effectively serve the City of Black Diamond. He knows some of the Council members are or have been in the work force and some of them have even been members of labor organizations. How would they react if volunteer teachers were brought in to take away the hard work that they do as a teacher. How would they react if volunteer healthcare professionals were brought in to displace the processes and procedures? How would they react if their engineering job was replaced by volunteers or outsourced to low wage workers? On behalf of the members that are employed by the City of Black Diamond and on behalf of the community for which they selflessly serve please cease and desist the skimming and subcontracting of Teamsters 117 work. They reserve their right to take whatever action necessary to ensure his member's rights are protected. As always the Teamsters are open and willing to work with and not against the City towards improving the standards of our members and towards the best interest of keeping the city sound fiscally and operationally for the citizens of Black Diamond.

Kristen Bryant, Bellevue – She would like to mention she has been to the Council Committee meetings and someone did ask her about her participation. She said she wished the Mayor would send staff and she certainly wouldn't be there if the staff was there. She is happy to provide more comment on that. She is happy to volunteer and hope many members of the public will provide reports and whatever information they can to the City Council. She said in the form of government we are in that information to the Council and elected officials is always welcome. She also wanted to address when she thinks of Save Black Diamond she thinks of so many people she has met and enjoyed getting to know some of the struggles they have had and some of the achievements, the information that has been shared with the public, the really amazing and smart testimony from many people at many hearings. Significant changes that are now required in the Massive Development space in Black Diamond because of the work of people that are associated with Save Black Diamond. They are working to protect the Natural Environment. Talking to people and hearing them say over and over that roads and traffic are a huge concern. They care about their home in this small town and enjoy it being out of the way a little bit, being able to see the stars at night and having trees and peace and quiet. She has a long list of people that she has met and things they have done but since no names are being called out she will go on past that. In addition to the things she named so many people have done. Hundreds of others have signed petitions supporting the city's efforts can make to

control and manage the large developments coming. When she talked to people who gathered those petitions they said that almost everyone they were able to meet either signed or if they didn't sign they agreed there was going to be some significant challenges and didn't really like the development. She feels so lucky to have met and to know all these people so when there is a concern about Save Black Diamond it doesn't really bother her personally but it should bother all those other people who have done such great work.

Jaylon Johansson, owner of Diamond Ridge Short Plat – He is not one of the members of Save Black Diamond but I am a member of I love Black Diamond. He wanted to give a couple reasons why he chose Black Diamond to bring his business and build a couple houses to the city to sell and put some families in. He and his partners are graduates of Tahoma High School. When he attended Tahoma High School they would skip out on Fridays and come up and eat at the Black Diamond Bakery. His mom would bring home cheese bread from the Black Diamond Bakery on her way back from Crystal Mountain. His first girlfriend worked at CJ's Bakery back when it was still in Black Diamond. He has a long history in Black Diamond. He also mountain bikes regularly here. He loves the rural feel of Black Diamond it's a wonderful place and loves the people here. Through the course of the project he has gotten to know Dan Dal Santo really well, Seth Boettcher who are great people to work with. He works in a lot of cities and he doesn't get people like that who you can work with very often. It's a good home, small town feel that we really enjoy and that is why we are here doing this project. They are trying to get final plat on the project that is completed. They are on the agenda for tonight but it has been pulled off and so he wanted to get up and put a face with the name of Shake & Bake LLC, it is a catchy name.

Gary Davis, Black Diamond – Most of what he was going to say has been covered adequately by others. There is one thing that he does feel needs to be repeated. The things that have been criticized as being unlawful and changes that have been made to the orders and rules that the City Council operates. If there had been any merit to these complaints they would have been removed by now. So please let us all just try and get along and work as a city.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

Councilmember Morgan would like to move to change the agenda for tonight. She has a replacement agenda with her. She said she had sent it out previously.

Councilmember Deady asked if she made enough copies for everyone.

Councilmember Morgan said yes they have some and already taken them.

Mayor Benson asked about the agenda being changed to having a first reading and then recommending it go to committee. First of all she said item number seven, the Final Plat Approval for Diamond Ridge was pulled yesterday. So they must not have noticed that agenda change. So that is not going to be on the agenda tonight and won't be on the agenda until the seventh.

Councilmember Morgan stated actually she noticed it had been pulled she was told it was a problem timing wise to send it to committee. She understands that for some reason that it is not complete and ready to go but those committees are not going to be meeting until into April. So she is thinking by then it will be ready to go to committee and so it wouldn't miss any time.

Mayor Benson stated if you want the staff to get up and talk about these agenda items before you pull them then you will have some information to discuss at the meeting. She has brought staff here tonight to speak on these agenda items.

Councilmember Morgan states she understands that, however their process is that there will be first reading and they don't really need to hear from staff at this time. They will be very welcome to come to the various Council committee meetings to speak about these subjects.

Attorney Carol Morris said she needs to interrupt at this point and let them know that Final Plat approval is not something that can go to a committee. They are required to follow the code and the code does not allow them to take a Final Plat to a committee. The problem is not just timing, the problem is procedure. A final Plat is reviewed by the Council at a regular Council meeting. If they take it to a committee, they are violating the State Law and City Code.

Councilmember Edelman said she would also like to make some comments about this. What's going on with this agenda tonight are again three kinds of no brainer resolutions. One is for the police department to have a container for people to bring their unused medications that they don't need any more and drop them off in a safe environment – no brainer. The second item 1081 has to do with replacing some equipment that is needed for the water supply and has to do with the chlorination system. So are we going to jeopardize the City of Black Diamond water system to send it back to one of the committees where things go to die? There has only been one resolution that has come out of these committees and that was the resolution for the three Planning Commissioners. The Civil Service Commissioner there was only one person who applied, that still hasn't come back out yet. On the third one, that is to contract with a firm to provide building inspections. Are the three Councilmembers going to shut down the building department in the city by having this sit in a committee for who knows how long? Where is their civic duty to keep this city up and running? Every time they turn around they are seeing them trying to stop the City Government. This has got to stop; the city has got to function. Now they don't want to pay the city bills this month. The building department is going to shut down; employees are already over worked and over stressed now. She just does not understand their rationale. Neither of the three of them can ever give an explanation on why they don't

like something, they just don't like it. It is unacceptable to her and yes she did apologize to the citizens of Black Diamond but it was not for the Mayor, Councilmember Deady or for her. She is embarrassed that the City Council behaves the way it does and a lot of this is illegal regardless of what some folks may think because they really are not an attorney. She is listening to the city attorney and that is why she is here tonight.

Mayor Benson asked Councilmember Morgan at their meeting on Thursday night she had talked about bringing the recycling event back and adding it to the agenda because if it isn't approved before the end of the month then we will lose out on the \$17,000 Grant for the recycle. Were they planning on adding that to the agenda tonight?

Councilmember Morgan stated she did try to add it to the agenda but it was turned back by somebody who was writing the agenda up there at City Hall by the old method.

Mayor Benson stated it never got submitted. Who was it submitted to?

Councilmember Morgan stated yes it did. It was submitted to Mayor Benson.

Mayor Benson stated it was not submitted to her.

Councilmember Morgan stated she will be forwarding that email to her in the morning.

Mayor Benson said she is sorry to say but she did not see an email on the recycling event. She is very sorry to say that. So she hopes that Councilmember Morgan is right and that it was sent and the Mayor missed that one. Mayor Benson said Councilmember Morgan can add it now. It is the Council's meeting; it can be added to the agenda now.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to add the recycling event to the Agenda. Motion **passed** with voting in favor (5-0).

Mayor Benson said they will add it to the agenda as item number seven. She asked if Council would like to hear Seth Boettcher - Public Works Director, speak about the recycle event as he has some literature with him here tonight.

Councilmember Morgan said she would love to hear Director Boettcher speak about the recycling event.

Mayor Benson said the next item on the agenda is item Resolution 16-1080 authorizing an agreement with ReturnMeds. Chief Kiblinger is here to speak on the ReturnMeds program.

Councilmember Pepper asked do they have a motion on the floor.

Mayor Benson stated no she took it off. It was already voted on putting it on the agenda. Also the Shake & Bake motion was pulled it is not on the agenda, it was pulled yesterday. It is not ready to go to committee or any place else. That cannot be taken to committee. And it was voted on.

So would Council like to have Police Chief come up and talk about the ReturnMeds program to have information to take to committee with them?

Councilmember Morgan said they would like to have somebody from the Police Department to come to their committee meetings to talk about it.

Councilmember Pepper said this is a very interesting thing that is happening with this resolution. She would really like to have Chief Kiblinger come to the committee and talk about it. Could she do that as well as speak here? Mayor Benson said no. Councilmember Pepper said then she would really like to have her come to committee to talk with them.

Councilmember Edelman stated you have a committee of the whole as the entire Council is here tonight. What is the Police Chief going to tell you in the committee meeting that she can't tell the entire Council tonight? The rules could be suspended and Council could proceed on and pass this resolution and get on with it.

Councilmember Deady mentioned there are citizens right here who would probably love to hear Chief Kiblinger come up and talk about this and we are seeing heads nod up and down. She would love to hear what Chief has to say about it without having to listen to an audio that she can barely hear what a couple of the Councilmembers say because they don't speak up loud enough in it.

Councilmember Morgan she will again state that they want to stick with procedures. It was voted in about how the Council will conduct its business. I know the rules can be suspended and that was one of the rules she really wanted to have. In those rules most specifically because she wants the public to have their chance to say what they have to say about these issues before we hear from staff. The public are the ones who pay the bills for this town, that is what the law says that the public input needs to come first. We love to hear the staff talk about the technicalities of things after that is done.

Councilmember Deady said so the staff generates a report for the Council and for the citizens to read. At a Council meeting staff comes up and talks about what is on their report. Staff is not bringing so much new stuff but why would Council not want to hear staff speak, they are here. She is so confused, she has been on the Council for just over four years and she can only imagine some may not be, but everyone else is confused. Maybe it would help if they can clarify to her why they do not want to hear what anyone of the staff has to say. When they just got done complaining a while ago about they cannot talk with staff. Staff can come up here to read and tell you everything they know and Councilmembers have the right to ask staff members a question right here, you have the people here.

Councilmember Pepper said there is an issue here. The issue is who determines the agenda content. The answer seems to be that the administrative branch of the government controls the administrative part controls the staff and that kind of thing. And the legislative arm has their job to do. When there is talk about the agenda she would like to read something from the AWC Manual that talks about the agenda first then she would like to

comment on it a little bit from her point of view right now. It says – “Who determines the agenda content. Although the Council has ultimate control over the agenda, typically it is left to the Mayor, City Manager or Clerk to draw up the agenda based upon Council input. Some cities assign this task to an agenda committee or to one Councilmember who assists the Mayor or Manager. The Council can change its order of business or a Councilmember can propose an additional new item of business.” So from her point of view she is seeing that the Mayor has certain rules and responsibilities and the Council as a legislative body has certain rules and responsibilities. There comes a point when we are dealing with the agenda and she will talk about an arts term where two things bleed together just a little bit in order to agree on the agenda. She would very much like to, maybe not her but some Council person who would work with the Mayor on the agenda understanding that we each have an input into that agenda. She thinks that they passed an agenda last week that was very similar to the current one but of course what we are doing as a legislative body is listening first, for first reading of the resolutions that come before the Council, then assigning to committee. Why is Council doing that? Council wants additional opportunities for public comment and opportunity for City Council to do more thorough work. The approved agenda was sent to the Clerk last week and the Mayor refused to post it for our meeting this evening. They are in the position of having to say here is the agenda that was approved last week. They want the public to be clear that these items are for first reading and to which committees these items are to be assigned to. This is something she feels the administrative branch and legislative branch need to find a way to work out and she hopes that they can do that.

Mayor Benson stated that one of the things that happens is the group of Save Black Diamond people are not very responsive. They need to get the agenda out; we give six days’ notice for the regular Council meeting, and they give a twenty-four or forty-eight hours’ notice. Everybody knows when our regular Council meetings are. At five o’clock on Friday you cannot get back to Brenda and approve the agenda. Mayor does not believe in the new rules anyway so she told Brenda not to send them to you because they can’t get them approved and back to staff in a timely fashion. So staff can notice the meetings six days ahead of time which they have been doing for years. She is sorry that they haven’t been able to come because they are not timely. Everything is a big emergency. This meeting is the only scheduled meeting we had this month because they cancelled our last regular Council meeting. Then they are trying to get the attorney to come to a meeting when she already had another Council meeting with another group.

Councilmember Edelman said they talk about coordination with the City, but the other Councilmembers don’t even talk with her or Councilmember Deady as their fellow councilmembers. There is no coordination, since the time Councilmember Pepper and Councilmember Weber were elected to try and sit down and talk with them. She has never had either one of them try and talk with her to find out what she thinks or what she knows. Council could have had a very easy transition but that appears not to be the way that the group works. That is why there is the hostility, they have been shut out. They are shut out every time they turn around. They have no voice because everything that is done is done by majority and it is not fair to the citizens.

Mayor Benson said she has staff here tonight to make presentations on these agenda items. The revised agenda was sent this afternoon sometime between 3:30 or 4:00 p.m. That is not timely.

Councilmember Morgan stated Mayor had it a good 9 days ago.

Councilmember Pepper stated that is the one that was sent last week.

Councilmember Deady said she still does not understand all of this stuff. What is a first reading? Just reading the Resolution and then send to a committee? Or do they say they will give an update about it or tell a little bit about it? Or does it get sent to committee and then Kristen or Mr. Derdowski research it and come back to Council to say if it is a good thing or bad thing or not? She seriously doesn't know how this works and even if Kristen got up and explained it because she just does not understand it. Help her to understand please.

Mayor Benson asked why if staff is here tonight why can't they just get up and present it.

Councilmember Pepper asked the question when the Council has their standing Council meetings why can staff not attend?

Mayor Benson stated staff does not have time to attend committee meetings. They have eight hour day jobs that they can't get done now. If they come to the city and meet with staff in a committee meeting, it might take a half hour to an hour. But if staff has to stay at the office and then come to your meetings then go home, they will be working 12-14 hour days. They can't afford to do that and the city can't afford to do that. It doesn't make any sense what so ever. Councilmember Morgan said earlier on they can come in at noon and then stay for your meetings. Well that doesn't work for the Mayor as staff has city business to do every single day.

Councilmember Pepper says she does understand that.

Mayor Benson asked does anyone want to authorize staff to get up and explain these agenda items tonight.

Councilmember Deady said she would like to hear what staff has to say. Whether or not they plug their ears and don't listen to it, she would love to hear what staff has to say about it. For the citizens to hear it, for the audio recording so people can hear it, they can ignore it and not listen to it, but at least let her and Councilmember Edelman hear about it.

Councilmember Edelman asked why they would not want to listen to the people that are performing the jobs. Do they just want to live in their little bubbles? How could they make an informed decision? She has listened to the tapes for the committee meetings they read verbatim out of the Revised Code of Washington or they read out of the Association of Washington City or the BARS Manual. They don't discuss the issues, they may think they do

but she says she could sit down with them and probably in five minutes explain what they need to know about the accounting system, it does not need to take an hour.

Mayor Benson said it was stated she doesn't reach out to Council but the very first meeting on January 7th she reached out to them to have an orientation with the attorney and herself. They brought an outside person with them who doesn't even live in the City of Black Diamond and then they immediately proceeded to the Council meeting and introduced 44 pages of documents to change the Council rules. Was that a cooperative and collaborative thing to do immediately the very same day she met with them.

Councilmember Morgan said Point of Order. She doesn't think any of them want to remember that January 7th meeting.

Mayor Benson said she wants to remember it.

Councilmember Morgan said the Mayor probably does because she was pulling stuff from the table after it had been moved and seconded. Before people could get words out of their mouths the Mayor was pulling stuff. People would say they wish to amend and before people could get the word amendment all the way out. That happened on about seven issues that were on that agenda.

Mayor Benson stated it was her agenda and it was housekeeping only. They turned down the Mayor's committee meetings for these committee meetings that staff cannot attend because it would probably be in violation of the Union contracts.

Councilmember Morgan said what she saw in the Union contract says the Teamsters Union and the people who sign this contract understand that they are people who work for a municipality and that there will be times when they will be asked to come to speak with citizens and councils at after-hours times. It states it right in their contract; she read it very carefully every single word.

Mayor Benson stated it says for regular meetings when they are invited by the Mayor to present.

Councilmember Morgan stated so the Mayor is going to handle the agenda, say who they can speak to and when we can speak to them.

Mayor Benson asked Councilmember Morgan how they would know what to put on the agenda without her.

Councilmember Morgan continued on with control the agenda, control the input and control the vote. And frankly she said what the Mayor knows about what to put on the agenda is what she gets from her staff. So this means that the staff is in control of what goes on in the city. That has nothing to do with Democracy. She is sorry but it is a legislative body that takes care of what the people are asking them to take care of.

Mayor Benson asked has the question been answered are they just going to send it to the committee or are they going to listen to staff.

Councilmember Morgan stated she wants to follow the rules that they voted on January 21st.

Councilmember Edelman says she moves to do something different. They have an executive session scheduled for tonight. Why don't they just disband with this agenda because there is no point and they don't want to discuss it and move into their executive session.

Mayor Benson said since they voted to put the recycling event back on to go ahead and let Seth present the recycling so they can vote on that.

Director Boettcher said he has presented this once before and it was discussed in committee. This is a contract with Olympic Environmental Resources and funded by grants. Because of the drop in grant funding and the decrease in commodity prices is putting stress on recycling. To meet the budget shortfall, Olympic came up with the idea for greater efficiency to combine our recycle event with the City of Maple Valley. They collect at Rock Creek Elementary, so it is a little further for our citizens but it was a way for us to actually increase to two events a Spring and Fall event. Previously we have only had one event. The distance from the Lake Sawyer area is about equal but it would be a further commute for the old town area. There are some additional services that would be available, so we need to follow how Maple Valley runs their program but it is partially the same and there will be flyers coming out. He would like to know if the City is going to do that this year soon because Maple Valley will need to make other arrangements. If we don't recycle it might be difficult to ever get Olympic back to write the grants for us and to do this. They have already expended a lot into setting this whole thing up. He would like to promote the recycle event in the city newsletter that is coming out at the first of the month and has an article written to put in it but has to know if they are going to move forward with the two recycle events or not. He encourages Council to approve the contract with Olympic. He is not sure if you Council has the paperwork with them but he has the Council action bill and the resolution that he can hand over to them if someone would like to make a motion. The resolution is number 16-1080.

Councilmember Morgan said she also spoke with Maple Valley on this subject and she would like to make really clear a few things. One is that Seth said there would be two events and another thing that the gal from Maple Valley said was they worked very diligently to try and include recycling things that were tougher for the City to get rid of recycling locally themselves. So not everything is on there but there are things that are coming back that haven't been on there for a while – oil, tires with a fee. She did not want to give her the list yet because she hadn't firmed it up. She noticed those things and also noticed they have some worm bins, compost bins and rain barrels that will be available for sale down there for twenty dollars. The other thing was they only wanted cash and she thinks that will be on their literature when they sent it out. She thanks for suggesting

bringing this forward because they need the word by the end of the month and we better do it now or it will be into next month.

Councilmember Pepper stated it used to be resolution number 16-1080, but it lost its number. So now resolution number 16-1080 is the ReturnMeds.

Mayor Benson asked Seth what resolution number he had.

Seth Boettcher stated he has resolution number 16-1080.

Councilmember Pepper said it was an old number.

Mayor Benson said Deputy City Clerk Meri Jane will get it changed.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Pepper to adopt resolution 16-10_ authorizing the Mayor to sign the attached professional services agreement with Olympic Environmental Resources to coordinate, manage, collect, recycle, dispose and report on two recycle events for Black Diamond and in cooperation and coordination with the City of Maple Valley and also the unincorporated area. Motion **passed** with voting in favor (5-0).

Councilmember Edelman said just for the sake of all the discussion tonight, we can work well if people want to work with them. There was no pre-coordination with Councilmember Deady or herself on bringing that back up tonight so that is typical.

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Benson reported working on scheduling the Tri-City Council meeting with Covington and Maple Valley. It is scheduled for Wednesday May 4th at 6:30 pm at Covington Council Chambers. She went to the SCATBd on Tuesday and Covington and Enumclaw were present which they haven't been present for many years. They are talking about maybe making it a four city council meeting because Enumclaw is interested in being involved. One of the things that were presented was the viaduct closure for the tunnel project when they tunnel under the viaduct.

Four projects were submitted to Puget Sound Regional Council (PSRC), one from Federal Way, two Renton projects and one Tukwila for the PSRC twelve million dollar funds for South King County. Our City missed out on that because the Comprehensive Plan was not completed. We had put a brochure together to apply for funds for the intersection of Roberts Drive and Ravensdale Way but were told we're not eligible because of the Comp Plan has not been completed. The city would have had a really good chance in getting it.

She attended the Fire Ad Hoc committee, a Farmers Market meeting, a Management meeting, the Chamber Luncheon on Wednesday where they had a presentation on voting from "We the People" from Tahoma High school which they had placed first or second place for the last ten years, they were really good.

COUNCIL REPORTS:

Councilmember Deady reported attending the Fire Ad Hoc committee meeting, Domestic Violence initiative meeting, Public Issues committee meeting, South King County meeting, SCATBd board meeting, Enumclaw School meeting on Monday which talked about the new elementary school, a St. Patty's Day Luncheon at the Community Center today, Black Diamond Chambers Luncheon, met with Seth Boettcher Public Works Director about the gym and issues with the gym, she also met with Peter Rimbos and Cindy Proctor.

Councilmember Morgan reported last Saturday she went to a Mud Management workshop at a farm in Enumclaw. She said it was pretty interesting with some new ideas that they have to deal with the mud. Some people in Black Diamond will know that she has a pretty big interest in flooding and muddied areas and how one can properly deal with them.

Yesterday afternoon she was at the KCD Workshop at their new grounds at the treatment center in Renton that will be a permanent place for them now. They are getting to talk about the new projects for the new 2016 grants to private landowners and how it is working that the KCD is involving itself in urban projects as well as rural projects.

Councilmember Edelman reported attending the Joint Planning Commission/City Council meeting on the 8th which was on the Comprehensive Plan workstudy and the meeting was very well done.

On the 9th she was at the Public Issues committee meeting, which is part of the Sound Cities Association. There is no action being taken at this time but when they get ready to vote on something she will bring it back for an update.

She went to the Domestic Violence Initiative on the 10th and the Town Hall Meeting that evening.

She attended the Black Diamond Elementary School Public meeting with about a dozen people. There was not a very big turnout to discuss this brand new elementary school that is coming in and looking at the designs, which she was disappointed.

She went to the SCATBd meeting, Fire Ad Hoc meeting committee meeting, Chamber of Commerce Luncheon and listened to the kids from Tahoma High school. They are really bright kids and did an outstanding job.

Councilmember Weber reported attending the Joint Planning Commission/City Council meeting, the Growth Management committee meeting, the Budget and Finance committee meeting.

Has been doing some research on what exactly defines public participation versus public engagement. He thinks it would be a good thing to have our neighbors to the South (Enumclaw) create a Quad-City meeting and join in.

Councilmember Pepper reported attending the Growth Management and Government Operations committee meetings.

She would like to talk about something called Sunshine week from AWC which is March 13-19. It is a National initiative to promote dialogue and importance of government and freedom of information. They give some suggestions about things that cities can do in that area.

Each member of the Council brings their own strength to the mix and she thinks that three of them are getting one kind of a label. She wants to prize the fact and be very proud of the fact that along with the strengths of the people that are already here they have a naturalist, an environmentalist, a scientist, a business person and an engineer, an educator and an arts person. On this Council sit a group of very diverse people but each of them brings strength to the Council. She would like all of them to consider that when they are working hopefully together.

Councilmember Deady asked with all the talk about committee meetings if maybe she could get an update on each of the committees from the President or the Chair on what items are in the committees and what they have discussed and found or what they are still looking for.

Councilmember Pepper said there are minutes and an agenda for each committee. She stated they would be happy to do that next time.

Councilmember Deady said it would be nice to have that noted on every agenda.

Councilmember Pepper said that it would be nice for them to attend the meetings and that is a good suggestion.

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Robbin Taylor, Black Diamond – Council is such sticklers on their rules, but they can't even follow them. The recycling event; this is the first time it has been to the Council. It did not receive a first reading and Council did not suspend the rules and it was passed. She has a hunch that Director Seth Boettcher and she are the only people in the room who actually have a copy of what was passed tonight. Not that she has a problem with the Recycling event what she has a problem with is it was first going to be on the agenda for the March 3rd meeting and posted online Friday at 2:26. The March 3rd meeting was cancelled and rescheduled for March 2nd. The resolution was not on the agenda for the March 2nd. The Budget committee met on February 29th. She brought her copy and she spoke to the Budget committee about how she was sorry it was not on the agenda for the March 2nd meeting because that meant it would not have its first reading until March 17th which was tonight. It would be sent to committee and maybe or might come back April 7th. It was taken up, not the resolution; the resolution itself never made it to the committee and was just discussed in general. Kirsten Bryant talked about it and explained it at the March 10th Government Operations committee. Councilmember Morgan said at that meeting that the agenda bill wasn't properly noticed so it wasn't on the agenda so she doesn't know what was in it. They discussed it, it was recognized and a good event. Councilmember Morgan told Councilmember Pepper to get it on the agenda for the next city meeting which was tonight. It never made it on the agenda so it is added here on the fly and once again she says Public Works Director Seth Boettcher and her are probably the only ones with copies. No one here knows what was in it. She is startled that this was pulled out and not sent to

committee. It is their rules and they did not even suspend their own rules to do it. She doesn't have a problem with it getting passed. She has a problem with their process and procedure. They are sticklers about sticking to the rules they voted on January 21st and then they blow it right there. They don't even follow the rules right there. She is glad they are going to have the recycling event but she will tell them what, it is because the Council pitched a fit that this did not make it onto the March 2nd agenda. It was on the March 3rd agenda.

Matthew House, Teamsters Local Union 117 – He wanted to finish up a couple things that did not fit in his last 3 minutes and address a couple things that may have happened at the Council meeting here too. We were talking about some of these resolutions and business that the City is conducting and how that affects his members. The majority of the current Council has adopted resolutions and conducted business in a manner contrary to legal advice to their own attorney. Some of these resolutions and procedures may compromise the City's liability and thus some Council members request for attendance by his members to those meetings may cause liability to my members. His members are caught in a tug of war even being accused by one council member in the press of being part of an opposition. His members and city staff are just doing their job at the highest standard for the citizens of Black Diamond. Hopefully Council thinks about the workers when they are making their decisions and how that impacts them. They are the ones who make the city run, they are the boots on the ground making things happen for the city. The exempt employees that do put in long hours and most of the employees that he represents are exempt. There is also a past practice statuesque of how those schedules have operated. He knows that Ms. Morgan cited some of the contract but he also asks them to maybe read up on RCW 41.56. It is about the collective bargaining and the mandate to bargain over changes, wages, hours of work and working conditions of the employees of Black Diamond. He knows that meetings that staff has attended in the past has been during the day, during normal working hours. Normal working hours are cited in the contract and if Council wants to change that he suggests they take that up with the Mayor who is head of the administration of the city and could talk about if it needs to be bargained or not.

Judy Goodwin, Black Diamond - she stated it is great to have the staff here tonight and feels like it should be. She is really sorry that they could not hear from Jamie (Police Chief) tonight because she for one carries around a big plastic bag of out of date medicine in her trunk looking for some place for it to go and she really wishes she had that information now. One inconsistency that she has to point out that Councilmember Weber brought up was that he has an eight hour job and therefore he cannot come to the day time meetings. Well the staff all has eight hour jobs and they number how many thirty. She is sympathetic with Councilmember Weber's situation but at the same time numbers have to be balanced to some degree. She did talk with some staff members earlier and they said working with a couple of Council people, being able to have tug of wars about situations that were going on and come to some conclusions was a great way to deal with things that were going on in the city. Compromises usually came together at those meetings but those meetings have got to be in order for that to happen. She would like to point out one more thing. The rules that Councilmember Pepper read from so often, in those rules it talks about new Councilmembers really need six months to listen and to be educated and anything

presented right off the cuff are usually resented and things don't go well or smoothly. It recommends taking six months to listen and become educated and then come forth if they have a particular agenda to present it at that time.

Despite the differences that all have here and been stated tonight there are a whole lot of things that can be agreed on. Her guess is that all want good schools, safe neighborhoods, preserve our link with history, after school programs, and providing for the needs to the older citizens. There are so many ways that all can save Black Diamond now. That is by volunteering at PTA, by helping at the Community Center, by getting on the Miner's Day Committee and there are many ways that we can work together. She would really like to see all of them doing that.

Brock Deady, Black Diamond – He said the thought to bring in a drug box to put your out of date drugs in would have been a great idea and he really would of liked to hear what the Police Chief had to say about it and would have been nice to get that taken care of today so they could move on with it. Like Council says they want to get things moving and don't want to have roadblocks so maybe they need to go around the rules a couple times to get easy things that are no-brainers asked so they can get on with them and get them implemented.

Jaylon Johansson, owner of Diamond Ridge Short Plat – He wanted to clarify that the staff report was submitted by the city on March 10th for the Shake & Bake final plat. He is not sure how that works but just seemed like there was some confusion when it was brought up and wanted to clarify that. Barb Kincaid, Community Development Director stated there was a bunch of materials still out there when it was on the agenda and when it was pulled. It will all be posted again by April 7th and will be on the April 7th agenda.

Brian Derdowski, Issaquah – He stated the issue with the final plat is something he has spent twenty years studying. He suggests looking at the code and look to see what is required to be done on those final plats. He is highly sympathetic to the individual from Diamond Ridge Short Plat who is here and who claims his plat is finished and complete. There is an incongruity between the RCW and Black Diamond municipal code. The Black Diamond municipal code gives a sixty day deadline on final plat approval, while the RCW requires thirty days. From hearing Director Kincaid's comments about the content of the file, it sounds like a very minor issue. The Councils review is called ministerial and should be thoroughly done. It is perfectly appropriate for a committee to do that if the Council chooses to do it. There is nothing in the law that says anything about committees that he knows of. He is not an attorney and wants to emphasize that. The code says nothing about that and it is perfectly fine for Council to have a committee to take a look at final plats. However the decision on the final plat is ministerial and has to be made by the Council and has to be done timely. So his concern is that the individual has met the requirements. If it was submitted on March second then that means April seventh is more than thirty days you will be in compliance with the Black Diamond Code and not the RCW. His suggestion is that if staff certifies that all the requirements for the final plat are completed then it may be appropriate for the Council President to move to waive the rules and put the final plat on the agenda for action. So this individual is not held up and so the city is not in violation of State Law. Might want to consult with the attorney on this topic but he urges them to

take a cautious approach and take action on this. He is pretty sure that the RCW says it is thirty days.

Carol Morris, City Attorney – States the RCW is 58.17.140 and it says that the final plat has to be approved, denied or sent back for additional information within thirty days. The City's code has a sixty day deadline. However, there is another RCW which is RCW 36.70b080 which says that the city can establish a different time period up to one hundred twenty days for issuance of a final decision on a land use matter. She has advised the staff that this is not something that can be acted upon at this time. She said thank you Mr. Derdowski for recommending that the Council consult their attorney and not himself because he is not an attorney and he would not be handling the lawsuit that would be resulting from this. Again she advised the Council to follow the code. She stated there is nothing in the code that allows them to take this to a committee. It is a ministerial action that is done at a regular Council meeting. There is no council, county, city or town in the state of Washington that takes final plats to committee. They are done at a regular council meeting. Please take the next two weeks until the next council meeting and do the research Mr. Derdowski and find out who sends final plats to committee, no one does. This is going to be on the agenda for the next council meeting.

EXECUTIVE SESSION: To discuss with Legal Counsel Pending Litigation Pursuant to RCW 42.30.110(1)(i)

8:52:58 pm - Mayor Benson said they will start with 30 minutes in Executive Session. No action to follow.

Executive Session was extended by 20 minutes. Executive Session came out at 9:45 pm.

ADJOURNMENT:

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

Meeting adjourned at 9:50:06 pm.

ATTEST:

Carol Benson, Mayor

Meri Jane Bohn, Deputy City Clerk

RECEIVED
CLERK OFFICE

MAR 17 2016

BY: nab

Janie Edelman
City Council Comments
March 17, 2016

I have spent a lot of time listening to the audio recordings of the last two committee meetings. In the March 9th meeting, Kristen Bryant was introduced as council "staff". Kristen then took over the running of the meeting. It was obvious to me that the people involved had no idea of what resolution 16-1074, the Storm Water Grant, entails. The Department of Ecology makes funds available to municipalities required to meet Phase II National Pollutant Discharge Elimination System requirements. This was first presented to the Council on February 4, 2016. Usually, it would have been passed that night. A \$50,000 grant from the state to help with our storm water management. Help that we need. But no, it was referred to the new Growth Management and Land Use Committee. That committee met on February 10th. On February 14th, it was still in committee. On March 9th, this committee decided it needed to be moved to the Finance Committee. During the March 14th Finance Committee meeting, Mr. Derdowski said they didn't use the right process and it should have been referred to both committees at the same time. It is being bounced from committee to committee but actually these Save Black Diamond Council Members don't know enough to even ask questions except those provided by Mr. Derdowski or Ms. Bryant. So there is little or no action. Ms. Bryant has stated that there is no rush. What she fails to understand is that the city initially spends the money and is reimbursed by the Department of Ecology. Now it is stuck in limbo. I guess this is where our city business now goes to die. And now we have three more resolutions being referred to these ineffective committees.

It appears to me from these meetings that the Save Black Diamond Council Members only do or say what Mr. Derdowski or Ms. Bryant provide to them. These meetings basically tell the Save Black Diamond Council Members what they are supposed to think. We know Mr. Derdowski wrote the new illegal council rules. As "staff", he "volunteers" to write letters to the mayor for the Save Black Diamond Council Members. Why is that? Are they so ill informed that they can't ask any original questions? It also appears that questions asked of the Save Black Diamond Council Members are answered by Mr. Derdowski or Ms. Bryant. Where are your independent voices?

In the March 14th Finance Committee meeting, Mr. Derdowski asked to “assist” at the meeting since staff was not present. He stated he is “volunteer staff”. A lot of time was spent reading from the BARS manual and the Revised Code of Washington on financial issues. Mr. Derdowski said he couldn’t find any evidence of our compliance to the RCW and BARS. They never talk to the Finance Director and evidently couldn’t find our Financial Policy on the finance page of our website. Mr. Derdowski said that he would write a letter for the Save Black Diamond Council Members to send on to the Mayor. He thinks we have no internal financial controls. Yet, none of these people talk to the Finance Director directly. He uses the word “we” quite often, but I know that it is the use of the “royal we” meaning him. He publically stated that in his view we could be violating the state statutes. They have the misconception that there are improper expenditures of funds. But if you don’t sit down and talk to the Finance Director how would you know? The Save Black Diamond Council Members, Mr. Derdowski and Ms. Bryant don’t even know that there is an invoice for every voucher. These were matters that were discussed in detail in our old council committee meetings. All invoices were there to be reviewed if necessary. Again, Mr. Derdowski, as “volunteer staff” said he would write a letter for the Save Black Diamond Council Members to send to the Mayor on this.

Brian Weber brought up an issue on the MDRT budget and wants to dig into that. He also has contacted the State Auditor’s office to have them come and give a presentation. He questioned the new truck purchased for the Public Works Department. He wanted to know where the surplus \$17,000 went. The Save Black Diamond Council Members do not understand that the purchase is only part of budgeted activity. The remaining money is used for the upgrades that need to be added. Again, don’t talk to anyone who knows anything, just talk amongst your uninformed selves.

They questioned the voucher for DKS, a subcontractor to BergerAbam for work performed on the comp plan update. This was to settle a claim because they had not been paid by BergerAbam for work performed. These companies had been contracted during the Save Black Diamond Mayor, Dave Gordon, regime along with Christy Todd. Two more failures from Save Black Diamond. Again, Mr. Derdowski recommended he write a letter for the Save Black Diamond Council Members to send to the Mayor.

There was a discussion of the budget itself. Again the Save Black Diamond Members and Mr. Derdowski question the Mayor's authority. When you can't figure out beginning monthly balances, revenues and expenditures, and ending monthly balances—it is just like check book accounting—how in the heck are the Save Black Diamond Council Members going to understand department level budgeting without Work Studies? Oh yes, the Council President and the other Save Black Diamond Council Members canceled our Work Studies. Heaven forbid some truth should come to light.

The bottom line is that Mr. Derdowski and Ms. Bryant are leading the Save Black Diamond Council Members through ignorance, deceit, lies and misinformation. Since you evidently don't want people who live within our urban growth area on our Planning Commission, why are you letting two people from Bellevue, not voters in our city, keep telling the City of Black Diamond how to operate. It is time for Mr. Derdowski and Ms. Bryant to go meddle in the affairs of their own city and get out of ours.

CLAIM VOUCHER
CITY OF BLACK DIAMOND
POST OFFICE BOX 599 • BLACK DIAMOND, WASHINGTON 98010

CERTIFICATION

I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered 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.

Approved For Payment By:

SIGNED _____

TITLE _____

.....
Council Member

Invoice Number	Invoice Date	Scheduled Payment Date	Account Number	Description	Amount
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0059886	2/19/2016	3/17/2016	310-000-025-558-60-41-00	CD Planning	
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July 1, 2015 to August 28, 2015 Services
310-000-025-558-60-41-00
CD Planning

Comp Plan Update-Prof Svs \$10,000.00

Invoice Total: \$10,000.00
Vendor Total: \$10,000.00



DKS Associates
 1970 Broadway, Ste. 740
 Oakland, CA 94612-2219
 510.763.2061
 510.268.1739 fax
 www.dksassociates.com

Barbara Kincaid
 City of Black Diamond
 24301 Roberts Dr
 Black Diamond, WA 98010

February 19, 2016
 Project No: 14218-000
 Invoice No: 0059886

For consulting services in connection with close out of the 2015 Black Diamond Comprehensive Plan Update.
Professional Services for the Period of July 1, 2015 through August 28, 2015

Task	006	3.5 Update Travel Demand Models		
Professional Personnel				
		Hours	Rate	Amount
Grade 9				
Le, Tom		97.00	95.00	9,215.00
Grade 17				
Grgich, Christopher		.50	135.00	67.50
Grade 25				
Powers, Meagan		4.10	175.00	717.50
Totals		101.60		10,000.00
Total Labor				10,000.00
			Total this Task	\$10,000.00
			Total this Invoice	\$10,000.00

I hereby certify the goods or services have been received, and/or the payment is required, per contract or legal obligation.

Approved by: Barbara Kincaid

Date: 2/22/16

Comp Plan Account: 310-000-005-55860-4100

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: May 5, 2016	AB16-016A
Resolution No. 16-1074 Authorizing a grant agreement with the Department of Ecology for the 2015-2017 Stormwater Capacity Grant	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): \$25,000 revenue		
Fund Source: Department of Ecology	Public Works – Seth Boettcher	X
Timeline: Expires March 31, 2017	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: Resolution No. 16-1074; Grant Agreement		
SUMMARY STATEMENT: The purpose of this grant is to provide additional assistance to the City of Black Diamond with our Department of Ecology stormwater permit requirements. This grant will expire March 31, 2017 and is retroactive to July 1, 2015. The grant funds are as follows: Task 1 – Up to \$1500 for Project Administration/Management Task 2 - \$23,500 for implementation and management of the Stormwater Program as required by the City’s stormwater discharge permit from the Department of Ecology. This is a similar grant to previous grants the City has received from the Department of Ecology and can be used for items outlined in the City’s Stormwater Management Program. FISCAL NOTE (Finance Department): This \$25000 grant was expected in 2016 and is already included in the 2016 Budget.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-1074, authorizing the Mayor to execute a grant agreement with the Department of Ecology for the 2015-2017 Stormwater Capacity Grant.		

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
February 4, 2016	Referred to Committee	
May 5, 2016		

RESOLUTION NO. 16-1074

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A GRANT
AGREEMENT WITH THE DEPARTMENT OF ECOLOGY
FOR THE 2015-2017 STORMWATER CAPACITY GRANT**

WHEREAS, the City of Black Diamond is required to meet Phase II NPDES Permit requirements; and

WHEREAS, the Department of Ecology has made funds available to municipalities required to meet Phase II NPDES Permit requirements in the form of the 2015-2017 Stormwater Capacity Grant;

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

Section 1. The Mayor is hereby authorized to execute a grant agreement with the Department of Ecology for the 2015-2017 Stormwater Capacity Grant in the amount of \$25,000 to meet Phase II NPDES Permit requirements.

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 WQSWCAP-1517-BlaDia-00012

WATER QUALITY STORMWATER CAPACITY AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Black Diamond

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and City of Black Diamond, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	2015-2017 Biennial Stormwater Capacity Grants
Total Cost:	\$50,000.00
Total Eligible Cost:	\$50,000.00
Ecology Share:	\$50,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	03/31/2017
Project Type:	Capacity Grant

Project Short Description:

This project will assist Phase I and II Permittees in implementation or management of municipal stormwater programs.

Project Long Description:

N/A

Overall Goal:

This project will improve water quality in the State of Washington by reducing stormwater pollutants discharged to state water bodies.

RECIPIENT INFORMATION

Organization Name: City of Black Diamond

Federal Tax ID: 91-6016204
DUNS Number: 195690011

Mailing Address: PO Box 599
Black Diamond, WA, 98010

Physical Address: PO Box 599
24301 Roberts Drive
Organization Email: shanis@ci.blackdiamond.wa.us
Organization Fax: (360) 886-2592

Contacts

Project Manager	Scott Hanis Capital Project/Program Manager PO Box 599 24301 Roberts Drive Black Diamond, Washington, 98010 Email: shanis@ci.blackdiamond.wa.us Phone: (360) 886-5700
Billing Contact	Scott Hanis Capital Project/Program Manager PO Box 599 24301 Roberts Drive Black Diamond, Washington, 98010 Email: shanis@ci.blackdiamond.wa.us Phone: (360) 886-5700
Authorized Signatory	Scott Hanis Capital Project/Program Manager PO Box 599 24301 Roberts Drive Black Diamond, Washington, 98010 Email: shanis@ci.blackdiamond.wa.us Phone: (360) 886-5700

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Water Quality
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Water Quality
300 Desmond Drive
Lacey, WA 98503

Contacts

Project Manager	Kyle Graunke P.O. Box 47600 Olympia, Washington, 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 407-6452
Financial Manager	Kyle Graunke P.O. Box 47600 Olympia, Washington, 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 407-6452

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

**Washington State
Department of Ecology**

City of Black Diamond

Program Manager _____ Date _____
Heather Bartlett
Water Quality

Scott Hanis _____ Date _____
Capital Project/Program Manager

Carol Benson

Mayor _____ Date _____

SCOPE OF WORK

Task Number: 1 **Task Cost: \$3,000.00**

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Scott Hanis

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$47,000.00

Task Title: Project Administration/Management

Task Description:

Conduct work related to implementation of municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit requirements. If the RECIPIENT is out of compliance with the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit, the RECIPIENT will ensure funds are used to attain compliance where applicable.

RECIPIENT may conduct work related to implementation of additional activities required by the municipal stormwater NPDES permits. The following is a list of elements RECIPIENT's project may include.

- 1) Public education and outreach activities, including stewardship activities.
- 2) Public involvement and participation activities.
- 3) Illicit discharge detection and elimination (IDDE) program activities, including:
 - a) Mapping or geographic information systems of municipal separate storm sewer systems (MS4s).
 - b) Staff training.
 - c) Activities to identify and remove illicit stormwater discharges.
 - d) Field screening procedures.
 - e) Complaint hotline database or tracking system improvements.
- 4) Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 - a) Development of an ordinance and associated technical manual or update of applicable codes.
 - b) Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance.
 - c) Training for plan review and/or inspection staff.
 - d) Participation in applicable watershed planning effort.
- 5) Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 - a) Inspecting and/or maintaining the MS4 infrastructure.
 - b) Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
- 6) Annual reporting activities.
- 7) Establishing and refining stormwater utilities, including stable rate structures.
- 8) Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan (QAPP) that the DEPARTMENT approves prior to awarding funding for monitoring.
Monitoring, including:
 - a) Development of applicable QAPPs.
 - b) Monitoring activities, in accordance with a DEPARTMENT- approved QAPP, to meet Phase I/II permit requirements.
- 9) Structural stormwater controls program activities (Phase I permit requirement)
- 10) Source control for existing development (Phase I permit requirement), including:
 - a) Inventory and inspection program.
 - b) Technical assistance and enforcement.
 - c) Staff training.
- 11) Equipment purchases that result directly in improved compliance with permit requirements. Allowed costs for equipment purchases must be specific to implementing a permit requirement (such as a vector truck) rather than

general use (such as a general use pick-up truck). Qualified equipment purchases include but are not limited to:

- a) Illicit discharge testing equipment and materials.
- b) Vector truck or sweeper truck or MS4 maintenance activities.
- c) Electronic devices dedicated to mapping of MS4 facilities and attributes.
- d) Software dedicated to tracking permit implementation activities.

As a deliverable, documentation of all tasks completed is required. Documentation includes but is not limited to: maps, field reports, dates and number of inspections conducted, dates of trainings held and participant lists, number of illicit discharges investigated and removed, summaries of planning, stormwater utility or procedural updates, annual reports, copies of approved QAPPs, summaries of structural or source control activities, summaries of how equipment purchases have increased or improved permit compliance.

Task Goal Statement:

This task will improve water quality in the State of Washington by reducing the pollutants delivered by stormwater to lakes, streams, and the Puget Sound by implementing measures required by Phase I and II NPDES permits.

Task Expected Outcome:

RECIPIENTS will implement measures required by Phase I and II NPDES permits.

Recipient Task Coordinator: Scott Hanis

Project Administration/Management

Deliverables

Number	Description	Due Date
2.1	Documentation of tasks completed	

Agreement No: WQSWCAP-1517-BlaDia-00012
 Project Title: 2015-2017 Biennial Stormwater Capacity Grants
 Recipient Name: City of Black Diamond

BUDGET

Funding Distribution EG160312

Funding Title: Capacity Grant FY16
 Funding Type: Grant Funding Expiration Date: 03/31/2017
 Funding Effective Date: 07/01/2015
 Funding Source:

Title: ELSA: Environmental Legacy Stewardship Account
 Type: State
 CFDA:
 Assistance Agreement:
 Description: MTCA

Recipient Match %: 0
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

Capacity Grant FY16	Task Total
Project Administration/Management	\$ 1,500.00
Permit Implementation	\$ 23,500.00
Total: \$ 25,000.00	

Agreement No: WQSWCAP-1517-BlaDia-00012
Project Title: 2015-2017 Biennial Stormwater Capacity Grants
Recipient Name: City of Black Diamond

BUDGET

Funding Distribution EG160313

Funding Title: Capacity Grant FY17
Funding Type: Grant Funding Expiration Date: 03/31/2017
Funding Effective Date: 07/01/2016
Funding Source:

Title: ELSA: Environmental Legacy Stewardship Account
Type: State
CFDA:
Assistance Agreement:
Description: MTCA

Recipient Match %: 0
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

Capacity Grant FY17	Task Total
Project Administration/Management	\$ 1,500.00
Permit Implementation	\$ 23,500.00
Total:	\$ 25,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Capacity Grant FY16	0.00 %	\$ 0.00	\$ 25,000.00	\$ 25,000.00
Capacity Grant FY17	0.00 %	\$ 0.00	\$ 25,000.00	\$ 25,000.00
Total		\$ 0.00	\$ 50,000.00	\$ 50,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY’s ADMINISTRATIVE REQUIREMENTS FOR RECIPIENTS OF ECOLOGY GRANTS AND LOANS at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defeasement” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY’s Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account of that name created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

“Project Schedule” means that schedule for the project specified in the agreement.

“Reserve Account” means, for a loan that constitutes Revenue-Secured Debt, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to ECOLOGY.

B. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.

2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a

central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement will be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. However, ECOLOGY may accept as eligible technical assistance, proposed practices, or project designs that do not meet these standards if approved in writing by the NRCS and ECOLOGY.

SECTION 3: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF SFY15-17 CAPACITY GRANTS

ECOLOGY shall reimburse eligible project expenses following the schedule below.

Prior to July 1, 2016: Total reimbursements to the RECIPIENT for eligible project expenses are limited to a maximum \$25,000.

After July 1, 2016: If funding is available, ECOLOGY will provide written notification via email to the RECIPIENT project manager stating that ECOLOGY may reimburse additional eligible expenses up to the total project eligible cost of \$50,000. Eligible project expenses may be incurred at any time between July 1, 2015 and March 31, 2017. If additional funds are not available, total reimbursements for eligible project expenses will be limited to a maximum of \$25,000.

If the RECIPIENT fails to submit two or more consecutive quarterly reports via the EAGL grant management system, ECOLOGY may consider this failure to provide progress reports as non-performance and initiate actions to amend or terminate this agreement.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR 180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award; and
- Receives more than 80 percent of its annual gross revenues from federal funds; and
- Receives more than \$25,000,000 in annual federal funds

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <<http://www.fsr.gov>> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <<http://www.usaspending.gov>>.

For more details on FFATA requirements, see www.fsr.gov <<http://www.fsr.gov>>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>

b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.

c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.

d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.

- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable Federal, State and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this contract will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods

or services.

- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - a. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - b. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
 - c. Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state

has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers

and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/25/2015

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 16-1079, confirming the Mayor's appointment to the Civil Service Commission	Agenda Date: May 5, 2016 AB16-021A	
	Mayor Carol Benson	X
	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	
	Public Works – Seth Boettcher	
Cost Impact (see also Fiscal Note): \$	Court – Stephanie Metcalf	
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: Resolution No. 16-1079; application		
SUMMARY STATEMENT: Staff advertised for the vacancy on the Civil Service Commission and one application was received. An interview committee consisting of Mayor Benson, Councilmember Edelman, Councilmember Deady, and Civil Service Secretary Luzville Goebel interviewed the applicant. After careful consideration, the Mayor is seeking confirmation of her appointment of Becky Arnold to the Black Diamond Civil Service Commission Position No. 3, with said term to expire December 31, 2020. FISCAL NOTE (Finance Department): N/A		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-1079, authorizing the Mayor's Civil Service Commission appointment of Becky Arnold to the Black Diamond Civil Service Commission Position No. 3.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
February 18, 2016	Referred to committee	
May 5, 2016		

RESOLUTION NO. 16-1079

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
CONFIRMING THE MAYOR'S APPOINTMENT TO THE CIVIL
SERVICIE COMMISSION**

WHEREAS, in accordance with Black Diamond Municipal Code 2.64.020, members of the Civil Service Commission shall be appointed by the Mayor and confirmed by the City Council; and

WHEREAS, this Resolution confirms the Mayor's appointment to the City of Black Diamond Civil Service Commission;

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

Section 1. That the Mayor's appointment of Becky Arnold to the City of Black Diamond Civil Service Commission Position No. 3 is hereby confirmed; said term to expire on December 31, 2020.

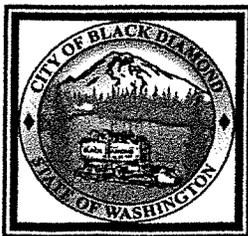
**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT
A REGULAR MEETING THEREOF, THIS _____ DAY OF _____, 2016.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



CITY OF BLACK DIAMOND
Commission Application
 Mailing Address: PO Box 599
 Physical Address: 24301 Roberts Drive
 Black Diamond, WA 98010
 Phone: 360.886.5700 - Fax: 360.886.2592

BLACK DIAMOND
 RECEIVED
 NOV 5 2015
 BY _____
 CITY HALL

Name: Becky Arnold

Address: 30420 Cumberland Dr Black Diamond, Wa 98010

Home Phone: 360-886-2536 Business Phone: _____

Email address: _____

How long at Residence: 9 yrs Best time to contact: evening

Commission desired: 1.) Black Diamond civil service commission
 2.) _____

Reason you are interested in serving: to support Black Diamond police Department

Previous community activities: None

Applicable education, occupational, and specialized experience: work community center Bask program

Commissions make recommendations regarding monetary expenditures and/or benefits to certain areas of the Community.

1.) Can you foresee possible conflicts of interest with any of your current employment or civic positions: None

2). When making these recommendations do you feel you could be impartial and base your decision on the overall need and benefit of the Community: yes

Are there any days or evenings you are unavailable to meet? None

Signature: Becky Arnold Date: 11-22-2015

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 for building department related services.	Agenda Date: May 5, 2016	
	AB16-024B	
	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): \$180,000 estimated for 2016 through 2018 (2 years)	Public Works – Seth Boettcher	
Fund Source: --Community Development Permit Revenue	Court – Stephanie Metcalf	
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: 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 vendors have been difficult to reconcile resulting in additional administrative time reviewing invoices. 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: <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	Motion to refer to committee.	Passed 3-2 (Deady, Edelman)
May 5, 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@bhcconsultants.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: _____

Title: _____

Date: _____

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.

Exhibit "B" City of Black Diamond Professional Services Agreement With BHC Consultants for Building Services
March 7, 2016

- 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:	Agenda Date: May 5, 2016	AB16-026A
Resolution authorizing the Mayor to sign a Professional Services Agreement with DKS Associates for the transportation element in the Comprehensive Plan update	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		
<p>SUMMARY STATEMENT:</p> <p>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.</p> <p>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.</p> <p>Tasks from the original scope that need to be completed include the following:</p> <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 <p>New tasks include:</p> <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 to adopt Resolution No. 16-0000, (*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	Motion to refer to committee.	Passed 3-2 (Deady, Edelman)
May 5, 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.

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 No. 16-0000, authorizing a Conservation Grant Agreement with Puget Sound Energy for the LED Streetlight Conversion project.	Agenda Date: May 5, 2016	
	AB16-028	
	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): \$8,946 revenue	Public Works – Seth Boettcher	X
Fund Source: Puget Sound Energy	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: Resolution No. 16-0000; Conservation Grant Agreement; Communications from Puget Sound Energy; Resolution No. 15-1052; Light Replacement Plans		
SUMMARY STATEMENT: The City executed a grant agreement with the Washington State Transportation Improvement Board through Resolution 15-1052 for the replacement of standard street lights to LED. This resolution authorized Puget Sound Energy to perform the work as part of that grant agreement. Puget Sound Energy has a Conservation Grant Program in which they award funds to entities saving energy by converting to LEDs. Puget Sound Energy has awarded the City these additional funds for this project. There are 158 lights currently scheduled for replacement as part of this program. Puget Sound Energy anticipates that the City's monthly street light billings will go from \$1,336.29/month to \$936.87/month, a savings of \$399.42/month and \$4,793.04/year.		
FISCAL NOTE (Finance Department): The City will not actually receive money for this additional grant. Puget Sound Energy is doing the work and is providing this grant for an additional \$8,946.. As such, they will have the grant as a line item in their bill to the City for the work (basically a discount). The City will pay the remainder of the costs, at which time Public Works staff will request a reimbursement from the Washington State Transportation Improvement Board for 100% of the remaining costs per the grant agreement through Resolution 15-1052 TIB Grant for \$58,100. This will provide a cost savings for the city in the future.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		

RECOMMENDED ACTION: **MOTION** to adopt Resolution 16-0000 (*Clerk to assign number at adoption*), authorizing the Mayor to execute a Conservation Grant Agreement with Puget Sound Energy for the LED Streetlight Conversion project.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 5, 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
CONSERVATION GRANT AGREEMENT WITH PUGET
SOUND ENERGY FOR THE LED STREETLIGHT
CONVERSION PROJECT

WHEREAS, the City executed a Relight Washington grant agreement with the Washington State Transportation Improvement Board for the LED Streetlight Conversion project through Resolution 15-1052; and

WHEREAS, Puget Sound Energy was selected as the service provider to perform the conversion work per Section 3 of the Relight Washington grant agreement; and

WHEREAS, Puget Sound Energy has awarded the City a conservation grant to help fund this project; and

WHEREAS, costs not covered by this conservation grant from Puget Sound Energy will be covered by the Relight Washington grant; and

WHEREAS, a grant agreement with Puget Sound Energy is required to establish the terms of funding this portion of the LED Streetlight Conversion project;

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

Section 1. The Mayor is hereby authorized to execute a Conservation Grant Agreement with Puget Sound Energy for the LED Streetlight Conversion project.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF MAY, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

CONSERVATION GRANT AGREEMENT

This AGREEMENT is made this _____ day of _____, 20_____, by and between **PUGET SOUND ENERGY (“PSE”)** and **BLACK DIAMOND CITY HALL (“Participant”)**.

RECITALS

- A. Under PSE’s Electric Schedule 83 and Gas Schedule 183, as currently in effect and on file with the Washington Utilities and Transportation Commission (collectively, “Tariffs”), PSE offers grants for certain conservation measures installed or implemented at facilities that receive electric or natural gas service from PSE.
- B. Participant intends to install or implement conservation measures and is requesting a grant from PSE.

AGREEMENTS

PSE and Participant agree as follows:

1. **PROJECT PREMISES/METER LOCATION ADDRESS: 24301 ROBERTS DR C-HALL BLACK DIAMOND, WA 98010 - RELIGHT WASHINGTON (TIB) - BLACK DIAMOND** *(Please note: meter location/address may differ from the site mailing address).* Participant will install or implement the conservation measures listed in paragraph 2 (“Conservation Measures”) at the above located facilities (the “Premises”). Participant represents either (a) that it is the owner or otherwise has the lawful authority to make the statements herein on behalf of the owner of the Premises, or (b) that it is the lawful tenant of the Premises and that it has obtained written authorization from the owner of the Premises.
2. **Conservation Measures.** Participant represents that it will purchase equipment or materials or has entered or will enter into an agreement with one or more contractors (the “Contractor”) for the purchase and installation or implementation at the Premises of the Conservation Measures which may be detailed in *Attachment C: Attachment to Conservation Grant*, at the following costs:

	Conservation Measures	Measure Life	Total Cost	Eligible Grant
1	Street Lighting Standard with Controls	20	\$24,869.36	\$8,946.00
	TOTAL (includes sales tax)		\$24,869.36	\$8,946.00

Participant represents that the total cost of the Conservation Measures is the net amount of its obligation with respect thereto.

3. **Grant.** Subject to PSE acceptance, PSE will grant the Participant, after installation of the Conservation Measures, an amount equal to the Eligible Conservation Grant (the “Grant”) set forth on Attachment C, provided, however, that such Conservation Measures must be installed, and Grant paid within 24 months or less of the signing of this Conservation Grant Agreement. If for any reason the installed cost of the Conservation Measures is less than the amount shown above and on Attachment C, PSE may decrease pro rata the amount of the Grant. Participant shall be responsible for paying any amount in excess of the amount of the Grant.

CONSERVATION GRANT AGREEMENT

4. **Separate Contract.** Participant acknowledges and agrees that PSE is not, and shall not be deemed to be, a party to any purchase or installation contract relating to Conservation Measures, which shall be installed pursuant to a contract between Participant and its Contractor(s). Participant expressly acknowledges that PSE's involvement with respect to any aspect of the Conservation Measures is limited to the furnishing of the Grant. **PSE HAS NOT MADE AND DOES NOT MAKE (AND PARTICIPANT ACKNOWLEDGES THAT PSE DOES NOT MAKE) ANY IMPLIED OR EXPRESS WARRANTY (INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS) REPRESENTATION, OR PROMISE WITH RESPECT TO EITHER (A) THE CONSERVATION MEASURES, (B) ANY MATERIALS AND LABOR REQUIRED FOR OR USED IN THE INSTALLATION OF THE CONSERVATION MEASURES, OR (C) THE INSTALLATION OF THE CONSERVATION MEASURES.**
5. **Final Cost Documentation, Access & Inspection:** Participant agrees to promptly provide PSE, upon request, and for a period no shorter than the longest applicable measure life: (1) documentation verifying equipment purchased and/or work performed in connection with the Conservation Measures installed; (2) reasonable access to and inspection of the Facility and Conservation Measures installed therein before, during and/or after implementation; and (3) reasonable access to, inspection and use of energy usage data related to the Conservation Measures including release of utility bills and Facility energy consumption information following implementation.
6. **Release.** Participant releases PSE from any and all claims, losses, harm, costs, liabilities, damages and expenses directly or indirectly resulting from or in connection with (a) the Conservation Measures, (b) any materials and labor required for or used in the installation of the Conservation Measures, (c) the installation of the Conservation Measures, or (d) the identification, handling and disposal of any associated hazardous waste materials.
7. **Disclaimer.** PSE conducts energy analyses at the request of its customers to determine the extent to which conservation measures are cost-effective. Any estimate of energy savings made by PSE in connection with any such analyses is solely for the purpose of determining the cost-effectiveness of the particular conservation measures and not to be used for any other purpose. PSE has not and does not make any promise, warranty or representation with respect to any savings in energy consumption from Conservation Measures.
8. **Termination.** In the event a Participant's contribution to PSE's recovery of energy efficiency program costs is affected by all or a portion of Participant's electric and/or gas delivery service being provided by a party other than PSE, then Participant shall refund to PSE an amount equal to the ratio of the unused Measure Life of the measure(s) to the total Measure Life of such Conservation Measure(s) multiplied by the dollar amount of the Grant with respect to such Conservation Measure(s).
9. **Incorporation of tariffs by reference.** This Agreement and the *Attachment To Conservation Grant* are subject to the terms of the Tariffs, incorporated herein by reference. Specific terms and conditions from one or more conservation schedules from similar filed tariffs may also apply, as determined by PSE at its sole discretion, based on various criteria. A complete list of conservation schedules is available at:

http://pse.com/aboutpse/Rates/Pages/Electric-Rate-Schedules.aspx?Schedule_x0020_Type=Conservation.
10. **Entire Agreement.** This Agreement and its attachments set forth the entire agreement between the parties and supersede any and all prior agreements with respect to the Conservation Measures. No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in writing and signed by both parties.



**CONSERVATION
GRANT AGREEMENT**

PUGET SOUND ENERGY

PARTICIPANT

By: _____

By: _____

Name: Ryan Lambert

Print Name: _____

Title: Mgr., Business Energy Management

Title: _____

Federal Tax I.D. No.: _____



Conservation Schedule E250
 Agreement No.: C-15596
 Project No.: 103-1803

ATTACHMENT C TO CONSERVATION GRANT

Conservation Measure(s) shall consist of the following:

In Relight Washington (TIB) - Black Diamond Location:

This project shall implement the Street Lighting project defined in the attached PSE Business Lighting Workbook (scope of work).

LED products must be on one of the following lists of qualifying products: Energy Star, Design Lights Consortium, or the Lighting Design Lab approved products.

PLEASE NOTE: Projects installed by IntoLight and owned and maintained by PSE are not subject to Sections 4 and 7 of the Grant Agreement.

- The scope of work for this project is shown in the Business Lighting Workbook see page: 6

The above specifications are solely for the purpose of defining energy-related components of Conservation Measure(s) for which the Grant is offered. Puget Sound Energy is not responsible for ensuring the health, safety, comfort, or well-being of workers or facility occupants or the suitability of equipment selected for the intended application. It is the responsibility of the grant Participant and the Participant's hired designers, contractors, consultants to ensure compliance of the Conservation Measure(s) with Participant's needs and all applicable codes and standards.

The following shall be submitted by Participant prior to Grant payment:

- Completed Request for Taxpayer I.D. Number ("W-9").
- Copies of invoicing (no purchase orders, quotes, or estimates) for all expenses, including but not limited to equipment, materials, and labor associated with installation of Conservation Measure(s).

Other (specify): _____



Conservation Schedule E250
Agreement No.: C-15596
Project No.: 103-1803

ATTACHMENT C TO CONSERVATION GRANT

Conservation Measure(s) shall be verified as follows prior to Grant payment:

A final site visit shall be conducted for projects greater than 25,000 kWh by a PSE Energy Management Engineer to verify as built fixture types and quantities. PSE reserves the right to conduct on-site verifications for projects with savings at or under 25,000 kWh. Projects installed by IntoLight will be verified using the red line diagrams provided by IntoLight's contractor.

If intended energy savings are not being achieved by Conservation Measure(s) because specified equipment efficiency parameters or performance parameters defined above are not used, Participant shall be required to correct such deficiencies prior to Grant payment. Failure to comply with specified equipment efficiency or performance parameters may result in forfeiture or reduction of Grant payment.

Project Relight Washington (TIB) - Bid 200-019-932-462 City wide Black Diamond, WA 98010	Customer City of Black Diamond Scott Hanis shanis@ci.blackdiamond.wa. (360) 886-5700	Contractor Black Diamond Black Diamond 24301 Roberts Dr Black Diamond, WA 98010	Payee Black Diamond Black Diamond 24301 Roberts Dr Black Diamond, WA 98010
Existing kWh Usage 82,362 New kWh Usage 37,632 kWh Savings 44,730 % Energy Saved 54.3%	Simple Payback 5.6 yrs Before Incentive Simple Payback 3.6 yrs After Incentive	Material Cost \$24,869.36 Labor Cost Misc Costs Subtotal	Estimated PSE Incentive \$3,946.00 Average \$/kWh \$0.56 TRC 1.93
Tax 0.00%	Total Cost \$24,869.36	Default Rate 0%	Your Saved kWh 0
	% of Project Cost		Final kWh 60,480
			Cost \$18,221
			Cost \$3,796
			Cost \$152
			Cost \$225
			Cost \$2,026
			Cost \$450

This is a Street Lighting lighting project

Space Information		Lighting Fixture / Lamp				Controls				Total Savings and Cost				PSE Notes		Your Notes			
Location / Room	Heat Type	Space Type	Lgt. Hrs.	Qty	Lamp / Fixture	Description	Cost	Watts	kWh	Qty	Control	Cost	Default Rate	Your Saved kWh	Final kWh		kWh	Cost	\$/kWh
1 City Wide	Existing Street Light	Street	4200	Exist	120 High Pressure Sodium	HPS 100W	151.8	120	14.4	60,480	Exterior Photo Control	0	0%	0	60,480	34,272	\$18,221	PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
	New	120 Intolight	4200	New	120 High Pressure Sodium	HPS 100W	151.8	120	6.24	26,208	Exterior Photo Control	0	0%	0	26,208	6,300	\$3,796	PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
2 City Wide	Existing Street Light	Street	4200	Exist	25 High Pressure Sodium	HPS 100W	151.8	60	1.5	6,300	Exterior Photo Control	0	0%	0	6,300	504	\$152	PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
	New	25 Custom Fixture	4200	New	25 High Pressure Sodium	HPS 100W	151.8	60	0.17	714	Exterior Photo Control	0	0%	0	714	294	\$225	PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
3 City Wide	Existing Street Light	Street	4200	Exist	1 High Pressure Sodium	HPS 150W	151.8	370	0.17	714	Exterior Photo Control	0	0%	0	714	2,562	\$2,026	PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
	New	1 Intolight	4200	New	1 High Pressure Sodium	HPS 150W	151.8	370	0.05	210	Exterior Photo Control	0	0%	0	210	798	\$450	PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 52
4 City Wide	Existing Street Light	Street	4200	Exist	1 High Pressure Sodium	HPS 150W	151.8	370	0.17	714	Exterior Photo Control	0	0%	0	714			PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
	New	1 Custom Fixture	4200	New	1 High Pressure Sodium	HPS 150W	151.8	370	0.1	420	Exterior Photo Control	0	0%	0	420			PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
5 City Wide	Existing Street Light	Street	4200	Exist	9 High Pressure Sodium	HPS 102W	225.1	302	1.53	6,426	Exterior Photo Control	0	0%	0	6,426			PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
	New	9 Intolight	4200	New	9 High Pressure Sodium	HPS 102W	225.1	302	0.92	3,864	Exterior Photo Control	0	0%	0	3,864			PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
6 City Wide	Existing Street Light	Street	4200	Exist	2 High Pressure Sodium	HPS 180W	225.1	370	0.34	1,428	Exterior Photo Control	0	0%	0	1,428			PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
	New	2 Custom Fixture	4200	New	2 High Pressure Sodium	HPS 180W	225.1	370	0.15	630	Exterior Photo Control	0	0%	0	630			PSE hours are 4200 for ALL exterior! REQUIRED - Photo Control or Astronomical Time Switch	Sch 53
7																			
8																			
9																			
10																			
11																			
12																			

Scott Hanis

From: Cann, Sarah <Sarah.Cann@pse.com>
Sent: Friday, March 25, 2016 9:43 AM
To: Scott Hanis; Mayhew, Robbieyn
Subject: RE: Conservation Grant Agreement: 103-1803 Relight Washington (TIB) - Black Diamond

Hi Scott,

We've got three different entities are work here; TIB, and PSE Energy Efficiency and PSE Intolight. This is an Energy Efficiency grant to help cover a portion of the costs of the retrofit because you are saving energy by converting to LEDs. The grant amount will be applied towards the construction charges from Intolight.

The project cost listed in this grant paperwork is not the actual cost of the project, the contracts you signed with Brynja have that information. I use the average incremental cost between a high pressure sodium fixture vs the cost of the new LED fixture when I calculate my incentives.

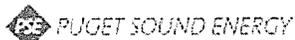
When you receive the construction charges bill from Intolight, you will see this grant amount applied, and my understanding is that TIB will be covering the rest.

I hope that helps clear things up! If not, give me a call and I'm happy to discuss further. It's understandably confusing with the multiple grants.

Thank you.

Sarah Isham Cann

EES Coordinator – Business Lighting
P.O. Box 97034 | Bellevue WA | 98009-9734
Ph. (425) 424-6649
Sarah.Cann@pse.com
www.PSE.com



From: Scott Hanis [<mailto:SHanis@ci.blackdiamond.wa.us>]
Sent: Friday, March 25, 2016 9:32 AM
To: Mayhew, Robbieyn
Cc: Cann, Sarah
Subject: RE: Conservation Grant Agreement: 103-1803 Relight Washington (TIB) - Black Diamond

Hi Robbieyn,

I just need to clarify what this is for. We were given a grant from TIB for the Relight Washington program which is replacing street lights. Is this grant agreement part of that? Is the total cost (\$24,869.36) the cost that will be covered from TIB, less the eligible grant (\$8,946)? I guess I'm confused because we already had to sign an authorization with Brynja Myren.

Thanks!

Scott

From: Mayhew, Robbieyn [mailto:Robbieyn.Mayhew@pse.com]
Sent: Friday, March 25, 2016 5:02 AM
To: Scott Hanis
Cc: Cann, Sarah
Subject: Conservation Grant Agreement: 103-1803 Relight Washington (TIB) - Black Diamond

Dear Scott,

Greetings! Thank you for participating in PSE's energy efficiency programs. Please complete & return the attached Conservation Grant Agreement for the above referenced project at your earliest convenience. *Work may not begin until you receive the Executed Grant Agreement with PSE signature.*

The Payee information we have on file is:

VM # 109650
CITY OF BLACK DIAMOND
PO Box 599
BLACK DIAMOND, WA 98010-0599
TIN: 109650

The VM# above is the internally assigned number from our Accounts Payable department listing the information that would be used to mail you grant check; if this information is incorrect please provide a current W9 form with your preferred mailing address so we may update our records accordingly.

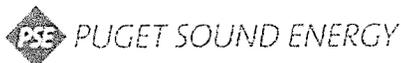
Please do not hesitate to contact your **EME, Sarah Cann** for further assistance.

Thank you for your conservation efforts and business!

Sincerely,

Robbieyn Mayhew

PUGET SOUND ENERGY
CUSTOMER SOLUTIONS
Business Energy Management
P.O. Box 97034 BOT-01H
Bellevue WA 98009-9734
Desk: (425) 424-6921
Fax: (425) 424-6747
Email: robbieyn.mayhew@pse.com



RESOLUTION NO. 15-1052

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A RELIGHT WASHINGTON PROGRAM GRANT AGREEMENT WITH THE WASHINGTON TRANSPORTATION IMPROVEMENT BOARD FOR THE LED STREETLIGHT CONVERSION PROJECT

WHEREAS, the City was selected to receive a Relight Washington Program grant from the Washington Transportation Improvement Board in the amount of \$58,100; and

WHEREAS, this grant will fund the conversion of streetlights within the City to energy efficient LED street lights; and

WHEREAS, Puget Sound Energy will complete the work for this project; and

WHEREAS, a grant agreement with the Washington Transportation Improvement Board is required to establish the terms of funding the LED Streetlight Conversion project;

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

Section 1. The Mayor is hereby authorized to execute a Relight Washington Program grant agreement with the Washington Transportation Improvement Board for the LED Streetlight Conversion project attached hereto.

Section 2. Puget Sound Energy is hereby selected to be the service provider to perform the actual conversion work as outlined in section 3 of the grant agreement.

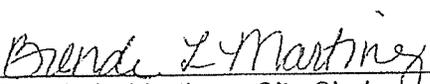
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF NOVEMBER, 2015.

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

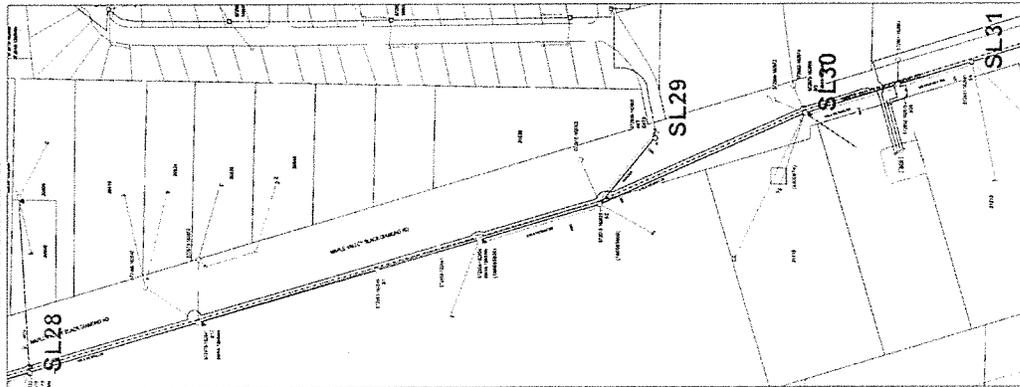
Attest:



Brenda L. Martinez, City Clerk

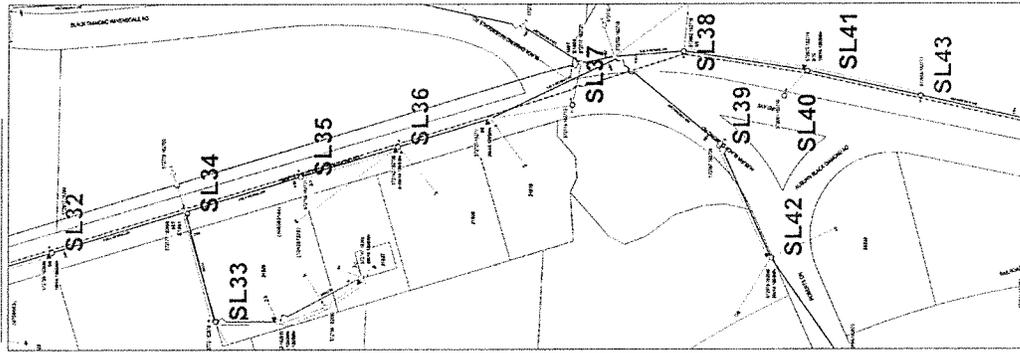
SCALE: 1" = 100'

Match Line "B" - See Sht. 02 of 08



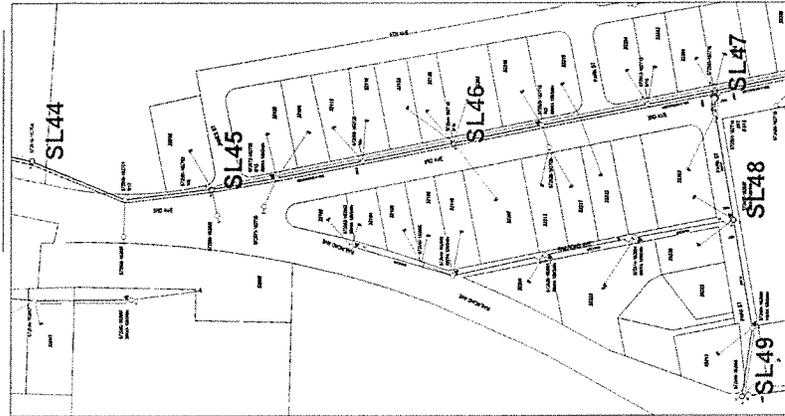
Match Line "D"

Match Line "D"



Match Line "F"

Match Line "E"



Match Line "H" - See Sht. 06 of 08

Match Line "G" - See Sht. 05 of 08

STREET LIGHT TABLE - CHANGEOUTS

JOB #	INTOLIGHT TAG #	TYPE	PREVIOUS LUMINAIRE	LUMINAIRE		SCHED	WOPS	NOTES
				NEW LUMINAIRE	ARM LENGTH			
SL28	SL4834	WOOD	100W CHL	60W TYPE III	8'	53	15097931 15097932 15097933	RECYCLE
SL29	SL4835	WOOD	100W CHL	60W TYPE III	8'	53	15097934 15097935 15097936	RECYCLE
SL30	SL4836	WOOD	100W CHL	60W TYPE III	8'	53	15097937 15097938 15097939	RECYCLE
SL31	SL4837	WOOD	100W CHL	60W TYPE III	8'	53	15097940 15097941 15097942	RECYCLE
SL32	SL4838	WOOD	100W CHL	60W TYPE III	8'	53	15097943 15097944 15097945	RECYCLE
SL33	SL4839	WOOD	100W CHL	60W TYPE III	8'	53	15097946 15097947 15097948	RECYCLE
SL34	SL4840	WOOD	100W CHL	60W TYPE III	8'	53	15097949 15097950 15097951	RECYCLE
SL35	SL4841	WOOD	100W CHL	60W TYPE III	8'	53	15097952 15097953 15097954	RECYCLE
SL36	SL4842	WOOD	100W CHL	60W TYPE III	8'	53	15097955 15097956 15097957	RECYCLE
SL37	SL4843	WOOD	100W CHL	60W TYPE III	8'	53	15097958 15097959 15097960	RECYCLE
SL38	SL4844	WOOD	100W CHL	60W TYPE III	8'	53	15097961 15097962 15097963	RECYCLE
SL39	SL4845	WOOD	100W CHL	60W TYPE III	8'	53	15097964 15097965 15097966	RECYCLE
SL40	SL4846	WOOD	100W CHL	60W TYPE III	8'	53	15097967 15097968 15097969	RECYCLE
SL41	SL4847	WOOD	100W CHL	60W TYPE III	8'	53	15097970 15097971 15097972	RECYCLE
SL42	SL4848	WOOD	100W CHL	60W TYPE III	8'	53	15097973 15097974 15097975	RECYCLE
SL43	SL4849	WOOD	100W CHL	60W TYPE III	8'	53	15097976 15097977 15097978	RECYCLE
SL44	SL4850	WOOD	100W CHL	60W TYPE III	8'	53	15097979 15097980 15097981	RECYCLE
SL45	SL4851	WOOD	100W CHL	60W TYPE III	8'	53	15097982 15097983 15097984	RECYCLE
SL46	SL4852	WOOD	100W CHL	60W TYPE III	8'	53	15097985 15097986 15097987	RECYCLE
SL47	SL4853	WOOD	100W CHL	60W TYPE III	8'	53	15097988 15097989 15097990	RECYCLE
SL48	SL4854	WOOD	100W CHL	60W TYPE III	8'	53	15097991 15097992 15097993	RECYCLE
SL49	SL4855	WOOD	100W CHL	60W TYPE III	8'	53	15097994 15097995 15097996	RECYCLE
SL50	SL4856	WOOD	100W CHL	60W TYPE III	8'	53	15097997 15097998 15097999	RECYCLE

CALL FOR BIDDING
2 BUSINESS DAYS BEFORE YOU
START WORK

Project: **RELIGHT WASHINGTON - BLACK DIAMOND**

Contract No: **425272292**

Contract Description: **RELIGHT WASHINGTON - BLACK DIAMOND**

Contract Start: **01/15/2017**

Contract End: **01/15/2017**

Contract Value: **1,000,000.00**

Contract Status: **AWARD**

Contract Type: **NEW BUSINESS**

Contract Location: **RELIGHT WASHINGTON - BLACK DIAMOND**

Contract Manager: **KEVIN W. BROWN**

Contract Email: **KEVIN.W.BROWN@PUJET-SOUND-ENERGY.COM**

Contract Phone: **206.462.3333**

Contract Fax: **206.462.3333**

Contract Website: **WWW.PUJET-SOUND-ENERGY.COM**

Contract Address: **1000 WEST 10TH AVENUE, SUITE 1000, SEASIDE, WA 98134**

Contract City: **SEASIDE**

Contract State: **WA**

Contract Zip: **98134**

Contract Scale: **AS SHOWN**

Contract Date: **01/15/2017**

Contract Revision: **01**

Contract Description: **RELIGHT WASHINGTON - BLACK DIAMOND**

Contract Value: **1,000,000.00**

Contract Status: **AWARD**

Contract Type: **NEW BUSINESS**

Contract Location: **RELIGHT WASHINGTON - BLACK DIAMOND**

Contract Manager: **KEVIN W. BROWN**

Contract Email: **KEVIN.W.BROWN@PUJET-SOUND-ENERGY.COM**

Contract Phone: **206.462.3333**

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Contract State: **WA**

Contract Zip: **98134**

Contract Scale: **AS SHOWN**

Contract Date: **01/15/2017**

Contract Revision: **01**



Relight Washington - Black Diamond
Schedule 53 (18)

Version Location
Bain Canyon, Vp 0010

SCALE
PAGE
DATE

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 16-0000 authorizing the Mayor to execute a Water Quality Improvement Project Grant Agreement with King County for the North Commercial and State Route 169 Stormwater Treatment Facility project	Agenda Date: May 5, 2016	
	AB16-029	
	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): \$243,643 revenue	Public Works – Seth Boettcher	X
Fund Source: King County Water Quality Improvement Grant	Court – Stephanie Metcalf	
Timeline: 2016-2019		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution 16-0000; King County Water Quality Improvement Project Grant Agreement; 2015-2020 CIP Page		
SUMMARY STATEMENT: The City received Department of Ecology Capacity Grant funds in 2013 for pre-construction planning and design for the SR 169 and North Commercial Stormwater Treatment Facility project (Resolution 13-899). Public Works staff has been awarded a Water Quality Improvement Project Grant to help fund the construction of this project from King County. This grant will help staff as they continue to apply for grants for the construction of this project. Public Works staff estimates that \$920,000 will be needed to complete this project. This grant will cover \$243,643. Public Works staff will continue to apply for funding for the remaining \$676,357, including Opportunity Funds, the State Legislature, and WRIA 9. FISCAL NOTE (Finance Department): Under this Water Quality Grant of \$243,643, the County will reimburse the City for expenses incurred on this project. City staff will not expend money over the Grant amount on this project until the remaining funds are secured to complete this project. A budget change will be required in 2016 to add the Grant Revenue and Expenditures of \$243,643.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 16-0000 (Clerk to assign number at adoption), authorizing the Mayor to execute a Water Quality		

Improvement Project Grant Agreement with King County for the North Commercial and SR 169 Stormwater Treatment Facility project.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 5, 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 WATER QUALITY IMPROVEMENT PROJECT GRANT AGREEMENT WITH KING COUNTY FOR THE NORTH COMMERCIAL AND SR 169 STORMWATER TREATMENT FACILITY PROJECT

WHEREAS, the City has identified the need to treat stormwater runoff from State Route 169 and the north commercial area in the Capital Improvement Plan; and

WHEREAS, the City has completed design for the North Commercial and SR 169 Stormwater Treatment Facility project; and

WHEREAS, the City was selected for a Water Quality Improvement Project Grant in the amount of \$243,643; and

WHEREAS, Public Works staff will continue to seek additional grants needed for fully funding this project; and

WHEREAS, an agreement with King County is required to establish the terms of funding the North Commercial and SR 169 Stormwater Treatment Facility project;

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

Section 1. The Mayor is hereby authorized to execute the Water Quality Improvement Project Grant Agreement with King County for the North Commercial and SR 169 Stormwater Treatment Facility project, substantially in the form attached hereto.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF MAY, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



King County

Water Quality Improvement Project Grant Agreement

AGREEMENT
between
CITY OF BLACK DIAMOND
and
KING COUNTY

This is an Agreement between **City of Black Diamond**, hereinafter the “RECIPIENT” and King County, a political subdivision of the state of Washington, hereinafter the “COUNTY.” **This Agreement is effective as of the date of the COUNTY signatory.**

The purpose of this Agreement is to set forth the terms, conditions, and the legal and administrative relations that apply to the RECIPIENT in exchange for financial assistance in carrying out a proposed project entitled **North Commercial and State Route 169 Stormwater Treatment Facility**, hereinafter the “PROJECT.”

Section 1. Background and Recitals:

- A. RECIPIENT description: City of Black Diamond, a municipality located in southeast King County
- B. Proposed PROJECT benefit or improvement to water quality and/or the regional wastewater treatment system and its ratepayers: Supports final design and construction of wetland and infiltration swale to address stormwater outfall in Green River/Soos Creek basin to provide treatment prior to discharge to Ginder Creek.
- C. The COUNTY plans and proposes to remunerate the RECIPIENT for the purpose described in Subsection B above in an amount up to, but not exceeding \$243,643, hereinafter the “AWARD.”
- D. This AWARD is made with the understanding that the RECIPIENT will complete the PROJECT as outlined in the Scope of Work (Exhibit A) and will fulfill reporting requirements as described under the Terms and Conditions of this Agreement.
- E. The RECIPIENT plans to contribute to this PROJECT a cash and/or in-kind match valued at \$676,357, to be verified in submitted PROJECT reports.

Section 2. Terms and Conditions:

- A. The PROJECT shall be in accordance with the tasks and activities specified in the Scope of Work (Exhibit A). Any modifications must be requested in an Agreement Amendment

and be approved by the Director of the Wastewater Treatment Division (WTD) in the COUNTY's Department of Natural Resources and Parks.

- B. The COUNTY will, upon execution of this Agreement, establish procedures to allow payment to the RECIPIENT of all eligible expenses for approved activities up to the limit of the AWARD. Payments are on a reimbursement basis; except in special circumstances, at the discretion of the COUNTY, where advances of a portion of the AWARD may be made. Twenty percent (20%) of the AWARD amount will be withheld by the COUNTY until receipt of the final Quarterly Progress and Expense Reports and the Closeout Reports.
- C. The RECIPIENT's expenditures of AWARD funds shall be separately identified in the RECIPIENT's accounting records. If requested, the RECIPIENT shall comply with other reasonable requests made by the COUNTY with respect to the manner in which PROJECT expenditures are tracked and accounted for in the RECIPIENT's accounting books and records. The RECIPIENT shall maintain such records of expenditures as may be necessary to conform to generally accepted accounting principles, and to meet the requirements of all applicable state and federal laws.
- D. The COUNTY will reimburse RECIPIENT for expenses on a quarterly basis, following receipt and approval of Quarterly Progress Reports, Quarterly Expense Reports, and Closeout Reports. Twenty percent (20%) of the AWARD will be held back until a close-out verifies fiscal and programmatic compliance with the terms and conditions of the agreement.
 - 1. The RECIPIENT shall be responsible for submitting the following PROJECT progress reports: Quarterly Progress Reports (Exhibit E), Quarterly Expense Reports (Exhibit F or G), Financial Closeout Report (Exhibit H), and Narrative Closeout Report (Exhibit I); including backup documentation such as photos, copies of articles, and financial backup such as copies of receipts.
 - 2. Quarterly Progress Report (Exhibit E) and Quarterly Expense Report (Exhibit F or G) shall be submitted together.
 - a. Each Quarterly Progress Report shall be presented in the format shown in Exhibit E of this Agreement; each Quarterly Expense Report shall be presented in the format shown in Exhibit F of this agreement.
 - b. The Quarterly Progress and Quarterly Expense reports are due thirty (30) days after the end of each quarter.
 - c. If no expenses are made during a quarter, no Expense Report is needed. However, the Quarterly Progress Report should still be submitted and indicate that no expenses were made during that time period.

- d. The Quarterly Expense Report should detail expenses and include backup documentation of expenses.
 3. Financial Closeout Report (Exhibit H) and Narrative Closeout Report (Exhibit I) shall be submitted together, which will include closeout documentation.
 - a. The Final Closeout reports are due thirty (30) days after the end date of the contract or not later than February 28, 2019.
- E. Failure to submit the aforementioned Quarterly Report on the PROJECT progress within ninety (90) days of the due date may be cause for the COUNTY to terminate this agreement for non-performance. Termination would require the return of any funds advanced but not already spent executing the PROJECT, as well as forfeiture of AWARD funds for activities not completed by termination date.
- F. Failure to provide all of aforementioned documentation may result in the need to withhold part or all of the AWARD.
- G. Costs eligible for payment shall be limited to those costs identified in the Budget (Exhibit B) and incurred during the effective dates of this Agreement.
- H. Any and all activities to be funded by this Agreement to the RECIPIENT shall be completed by February 28, 2019. If needed, an Agreement Amendment may be granted to extend the terms of the contract beyond the end date, adjust the scope of work, or change the budget details (but not increase the total AWARD amount), conditioned upon approval by KING COUNTY. The extension must be requested and approved at least sixty (60) days in advance of the original end date.
- I. The RECIPIENT agrees to acknowledge the COUNTY in all media, publications, and signage that are produced as part of the PROJECT. This includes press releases, public service announcements, posters, flyers, signage, Web pages, blogs, and videos. The RECIPIENT will use the wording provided in Exhibit C of this Agreement (Credit and Disclaimers).

Section 3. Legal and Administrative Relations:

- A. The RECIPIENT shall maintain such records of expenditures as may be necessary to conform to generally accepted accounting principles and to meet the requirements of all applicable state and federal laws. The RECIPIENT shall maintain and submit to the COUNTY any such records as the COUNTY may require to conduct any audit of the PROJECT it may elect to conduct or to substantiate expenditures paid for by this AWARD. The RECIPIENT shall maintain and retain books and records related to the Agreement for at least three (3) years after the termination of said Agreement.
- B. The COUNTY's financial assistance to the RECIPIENT shall be construed by the parties as a special disbursement to the RECIPIENT to fund activities, as described herein that

generally benefit the COUNTY's efforts to leverage or complement the water quality mission of the regional wastewater system. The COUNTY's sole obligation under this agreement shall be to provide funds to the RECIPIENT and this agreement shall not be construed as a contract for services between the RECIPIENT and the COUNTY, or as establishing a principal agent relationship between the COUNTY and the RECIPIENT. No joint venture or partnership is formed as a result of this Agreement.

- C. The RECIPIENT shall be solely responsible for the recruiting, training, and supervision of its employees and volunteers. Individuals hired and paid by the RECIPIENT shall not, in any event, be construed to be employees of, or contractors to, the COUNTY and the RECIPIENT shall indemnify and hold harmless the COUNTY from any and all claims arising from any contention that said individuals are employees of, or contractors to, the COUNTY. This condition shall survive the termination of this Agreement. All actions undertaken under the funding provided by the terms of this agreement are, as between the COUNTY and the RECIPIENT, the sole responsibility of the RECIPIENT. No employees, agents, volunteers, or contractors of RECIPIENT shall be deemed, or represent themselves, to be employees of the COUNTY.
- D. RECIPIENT agrees for itself, its successors, assigns or by others including, without limitation, all persons directly or indirectly employed by RECIPIENT, or any agents, contractors, subcontractors, consultants, subconsultants, volunteers, licensees or invitees of RECIPIENT, to defend, indemnify, and hold harmless the COUNTY, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to RECIPIENT's exercise of rights, privileges, and obligations under this Agreement, except for the COUNTY's sole negligence. RECIPIENT's obligations under this section shall include, but not be limited to all of the following: (i) The duty to promptly accept tender of defense and provide defense to the COUNTY with legal counsel acceptable to the COUNTY at RECIPIENT's own expense; (ii) Indemnification of claims made by RECIPIENT's own employees or agents; and (iii) Waiver of RECIPIENT's immunity under the industrial insurance provisions of Title 51 R.C.W. but only to the extent necessary to indemnify the COUNTY, which waiver has been mutually negotiated by the Parties.

In the event it is necessary for the COUNTY to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable from RECIPIENT. The provisions of this Section 3.D shall survive the expiration, abandonment, or termination of this Agreement.

- E. Nothing in this Agreement shall be construed as prohibiting the RECIPIENT from undertaking or assisting projects developed outside the purview of this Agreement, or entering into agreements with other parties to undertake said projects in accordance with whatever terms and conditions may be agreed to between the RECIPIENT and other parties.

- F. The COUNTY shall be under no obligation to continue this agreement and may request partial or full reimbursement of payments it made to the RECIPIENT should the RECIPIENT fail to perform according to the terms and conditions of this Agreement, whether or not failure to perform is within the RECIPIENT's control.
- G. This Agreement may be amended at any time by written concurrence of the parties through a formalized Amendment Agreement Form and will terminate upon fulfillment of all obligations contained herein.
- H. The COUNTY may terminate this Agreement immediately for cause. If this Agreement is terminated the RECIPIENT shall return any unused portion of the funds advanced up to the date of termination.
- I. Invalidity or unenforceability of one or more provisions of this Agreement shall not affect any other provision of this Agreement.
- J. In its performance under this Agreement the RECIPIENT shall not discriminate against any person on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression, age except by minimum age, and retirement provisions, unless based upon a bona fide occupational qualification, and the RECIPIENT shall not violate any of the terms of chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state, or local law or regulation regarding nondiscrimination in employment.
- K. Authority: Representations and Warranties. Each signatory to this Agreement represents and warrants that he or she has full power and authority to execute and deliver this Agreement on behalf of the entity for whom he or she is signing.
- L. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all counterparts together shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.
- M. The effective date of this agreement is the date of COUNTY signatory.

AGREEMENT SIGNATURE PAGE

CITY OF BLACK DIAMOND by:

Signature: _____

Carol Benson, Mayor

Date: _____

KING COUNTY by:

Signature: _____

Gunars Sreibers, Acting Division Director, Wastewater Treatment Division

Date: _____

EXHIBIT A: SCOPE OF WORK

The task(s) set forth below summarize the RECIPIENT’s activities to be performed under this agreement to complete the PROJECT. All activities in the following tasks, including deliverables, must be completed by the expiration date of this agreement unless otherwise modified through an Agreement Amendment Form and approved by the COUNTY in writing.

Any work performed or costs incurred prior to the effective date of this agreement will be at the sole expense of the RECIPIENT.

Tasks and Activities	Measurable Results/Deliverables	Timeframe
Design and Permitting	Ensure environmental protection; implementation of good science and standards	
Construction of storm pipe to collect stormwater	Intercept the polluted stormwater before it discharges to Ginder Creek and transport it 2000 ft. downstream to a great site for treatment	Summer 2017 or 2018
Construct a wet pond for primary settling and a large shallow wetland for biological treatment	The constructed wetland will provide a natural highly effective treatment system to remove pollutants before the stormwater reaches Ginder Creek	Summer 2017 or 2018
Project Management and Inspection	The City’s oversight will ensure that state law is followed, construction is completed according to the contract and plans, reporting and records are properly kept and permit conditions are met	2016 - 2018
Permits/Permissions	Coordination with WSDOT for work within the State Right of Way; hydraulic permit approval from the state department of Fish and Wildlife for a storm pipe under or over Ginder Creek and possibly a new stream bank protection wall along Roberts Drive	Winter 2016

EXHIBIT B: BUDGET

Costs are limited to those approved by the COUNTY in the current Budget. Costs should be reasonable and necessary to carry out the task. All activities and PROJECT expenditures must be completed according to this agreement unless otherwise modified through an Agreement Amendment Form and approved by the COUNTY in writing.

Any work performed or costs incurred prior to the effective date of this agreement will be at the sole expense of the RECIPIENT.

An Agreement Amendment must be completed and approved to change a scope of work, request an extension, or if the budget might deviate more than ten percent (10%) (of Grand Total). For more information, contact your grant administrator.

A BUDGET CATEGORY	B ITEMS: Description (rate or unit x quantity)	C GRANT AWARD	D CASH MATCH	E IN-KIND MATCH	F SOURCE OF MATCH (indicate if pending or secured)
Staff salaries & benefits: for Project management, inspection services during construction and project administration	Public Works Director, Capital Project Manager and Utilities Supervisor average \$75/hr. x 1,200 hours	[\$24,300] (27% of \$90,000)		City is providing the property but cost is not accounted for in project budget	Secured
<i>Salary and Benefits Subtotal</i>		\$24,300			
Project supplies, materials, and equipment	Included in the construction bid below				
Construction by contract	Construction is currently estimated @ \$775,000	[\$201,500] 26% of \$775,000	[\$676,357] Opportunity fund, State leg, and WRIA 9		State legis. and WRIA 9 funding not secured yet
Engineering and permitting	Currently estimated at \$55,000	[\$17,843] 32%			
<i>Direct Costs Subtotal</i>		\$219,343	\$676,357		
<i>Project Subtotal (Salary and Benefits Subtotal + Direct Costs Subtotal)</i>		\$243,643	\$676,357		
<i>Overhead (not more than 10% of Grand TOTAL)</i>					
Grand TOTAL		\$243,643	\$676,357		

EXHIBIT C: ACKNOWLEDGEMENTS AND DISCLAIMERS



Logo and logo standards: For electronic versions of the official logos and logo standards, contact your grant administrator. **The above logo must be included on all printed documents and electronic media** produced in carrying out the PROJECT. This includes signage, posters, documents, brochures, flyers, newsletters, newspaper advertising, Web pages, blogs, and videos.

Credit for materials produced as part of the PROJECT: Acknowledge PROJECT funding by including the following sentence with the logo:

This project is funded by the King County Wastewater Treatment Division

If your PROJECT has multiple funders, it can say:

This project is funded in part by the King County Wastewater Treatment Division

Disclaimer language: For items where opinions or advice or a list of organizations or businesses are included in the copy (e.g., an interpretive panel, a guidebook, or a directory), please add the following disclaimer sentence:

The content herein does not constitute an endorsement by King County government, its employees, or its elected and appointed officials.

EXHIBIT D: AGREEMENT TERMS AND PROCEDURES

ACKNOWLEDGMENT: Please acknowledge KING COUNTY in all written and electronic media (publications, signage, press releases, public service announcements, posters, flyers, Web pages, videos, PowerPoint presentations, etc.). Refer to Exhibit C for further information.

ADVANCE: Advance payments are allowed in some cases at the discretion of the COUNTY; documentation of payments made from advances shall be submitted to the COUNTY prior to any further requests for AWARD funds.

AGREEMENT AMENDMENT: This document must be completed and approved to change a scope of work, request an extension, or if the budget (Exhibit B) might deviate in any PROJECT cost categories by an amount equal to or greater than ten percent (10%) of the total AWARD amount. This form is available from your grant administrator.

BALANCE OF AWARD: Any amount of your AWARD not spent on this PROJECT must be returned to KING COUNTY, if an advance was issued.

CLOSEOUT REPORTS, FINANCIAL AND NARRATIVE: These reports document the successful completion of the PROJECT according to the scope of work. The Financial and Narrative Closeout Reports are due thirty (30) days after the end of your agreement period. Refer to Exhibit H for more information.

Include in the final report:

1. Financial Closeout Report (Exhibit H) documenting the records of expenditures for the PROJECT (reconcile your project expenses, award, cash, and in-kind match).
2. Narrative Closeout Report (Exhibit I) documenting the successful completion of the PROJECT according to the scope of work. The final report will include a narrative, outreach materials, copies of communication materials, and tools created for and about the PROJECT.

ELIGIBLE CHARGES: Only expenses in the categories listed in the budget page of this grant agreement can be covered by this AWARD and only up to the indicated amount without prior authorization.

FINANCIAL RECORDS: Maintain a **record of your expenditures** to conform to generally accepted accounting principles. Retain records for at least three (3) years after the end date of your agreement. It is highly recommended that if you use a computer to track your project expenses you assign a code to this grant. If you keep track of your expenses manually, you will need to make copies of your receipts or other “manual” documents. This way, you will be able to document your expenses.

MATCH: Keep track of cash and/or in-kind match amount as it is described in your budget (Exhibit B) because it must be documented in your Financial Closeout Report (Exhibit H).

MILESTONE: Milestones are considered significant actions or events marking important progress or change in the stage of development of the PROJECT.

QUARTERLY PROGRESS REPORTS (Exhibit E): These reports include a task summary and provide a status report on the progress of tasks identified in the scope of work. It also quantifies the amount spent to date and percent of the PROJECT completed. The quarterly reports are due thirty (30) days after the end of each quarter.

QUARTERLY EXPENSE REPORTS (Exhibit F or G): This form, submitted along with a Quarterly Progress Report, is for reimbursement of costs each quarter.

SCOPE OF WORK (EXHIBIT A): Keep track of your activities as they relate to the scope of work you provided. You will have to document the progress when submitting your Quarterly Reports (Exhibit E) and Closeout Report (Exhibit I).

START DATE: The start date of this agreement is the date of the COUNTY signatory. Expenses can be posted as of the start date of your agreement but not sooner. (Same thing as Effective Date.)

EXHIBIT E: QUARTERLY PROGRESS REPORT



**Water Quality Improvement Project
Quarterly Progress Report**

Date _____

Recipient _____
(organization)

Contact Name _____

Phone _____ **Email** _____

Address _____

City, State, Zip Code _____

Request No. _____ **Dates** _____
(beginning & end date for this claim)

Project Name _____

Instructions: Complete this form and submit together with Quarterly Expense Report to Grant Administrator

Tasks/Activities (from Scope of Work)	Measurable Results/Deliverables progress/status/percentage completed (note dates) (from Scope of Work)
1)	
2)	
3)	

4)	
5)	

Briefly describe for this time period, in five lines or less per topic:

Project Successes

Obstacles and Challenges

Please email inquiries and all documents to:

Elizabeth Loudon, Grant Administrator

Wastewater Treatment Division

Phone: 206-477-4297 Email: water.grants@kingcounty.gov

EXHIBIT F: QUARTERLY EXPENSE REPORT



**Water Quality Improvement Project
Quarterly Expense Report**

Date _____

Recipient _____
(organization)

Contact Name _____

Phone _____ **Email** _____

Address _____

City, State, Zip Code _____

Request No. _____ **Dates** _____
(beginning & end date for this claim)

Project Name _____

Instructions: Complete this spreadsheet in Excel and attach your financial/accounting system reports to document all expenses.

Budget Line Item (From Exhibit B Budget, use latest approved amendment)	Budgeted (From Exhibit B Budget, use latest approved amendment)	Current Request	Amount of all Prior Requests (Do not include advances as a line item)	Award Balance Remaining
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
TOTAL	\$	\$ -	\$ -	\$ -
GRAND TOTAL		\$ -		
THIS REQUEST		\$ -		

Please email inquiries and all documents to:
 Elizabeth Loudon, Grant Administrator
 Wastewater Treatment Division
 Phone: 206-477-4297 Email: water.grants@kingcounty.gov

EXHIBIT G: QUARTERLY EXPENSE REPORT—ADVANCE



**Water Quality Improvement Project
Quarterly Expense Report with Advance**

Date _____

Recipient (organization) _____

Contact Name _____

Phone _____ **Email** _____

Address _____

City, State, Zip Code _____

Request No. _____ **Dates** (beginning & end date for this claim) _____

Project Name _____

Instructions: Complete this spreadsheet in Excel and attach your financial/accounting system reports to document all expenses. Advances will only be given in specific circumstances and need prior approval from grant administrator.

Budget Line Item (From Exhibit B Budget, use latest approved amendment)	Budgeted (From Exhibit B Budget, use latest approved amendment)	Current Request	Advance Reconciliation (Expenses covered by last advance)	Amount of all Prior Requests (Do not include advances as line item)	Award Balance Remaining
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -
ADVANCE REQUESTED (For next period)		\$ -			\$ -
GRAND TOTAL		\$ -			\$ -
ADVANCE FROM LAST INVOICE			\$ -		\$ -
ADJUSTED FOR ADVANCE FORFEITURE (Advance balances do not carry forward)			\$ -		\$ -
THIS REQUEST		\$ -			\$ -
ADVANCE EXPLANATION:					

Please email inquiries and all documents to:
 Elizabeth Loudon, Grant Administrator
 Wastewater Treatment Division
 Phone: 206-477-4297 Email: water.grants@kingcounty.gov

EXHIBIT H: FINANCIAL CLOSEOUT REPORT



**Water Quality Improvement Project
Financial Closeout Report**

Project Name _____

Recipient _____

Total Award _____

Project Contact _____

Address _____

City/State _____

Phone _____

Email _____

Grant Agreement Dates *Start Date - End Date* _____

Date Reporting *Today's Date* _____

Instructions: Complete the budget table below comparing your proposed budget to actual spending within the project and sign. Include receipts and/or auditable accounting details for all costs incurred for the project. This may include ledger-based copies, cancelled checks, and payroll records.

BUDGET ITEM	GRANT BUDGET	GRANT ACTUAL	CASH MATCH PROPOSED	CASH MATCH ACTUAL	IN-KIND MATCH PROPOSED	IN-KIND MATCH ACTUAL
Staff salaries & benefits						
<i>Salaries & Benefits Sub Total</i>						
Freelance workers and consultants						
Project supplies, materials, and equipment						
Commercial services						
Transportation						
Other costs						
<i>Direct Costs Sub Total</i>						
<i>Overhead (10% of Grand Total max)</i>						
Grand TOTAL						

Provisions

Please complete and sign below.

By signing this financial closeout report, I _____, an authorized representative of the above named RECIPIENT, confirm that I have examined the information contained herein and that, to the best of my knowledge, it is a true and accurate account of all the financial expenses and in-kind contributions incurred by the above named PROJECT in the course of fulfilling the conditions of the Agreement between City of Black Diamond and KING COUNTY.

This report contains financial documents from _____ to _____ (dates).

I hereby acknowledge that there are no further expenses associated with this PROJECT, nor any pending or future claims to the COUNTY and that the COUNTY is not liable for any expenses not documented in the budget. I understand that City of Black Diamond is fully bound by the provisions of the Agreement, including but not limited to, the return of COUNTY funds that are unspent or whose spending is unsubstantiated according to the Terms of the Agreement, and the right to examine records. I further understand that the COUNTY, upon examining final budget and closeout reports, submitted by the RECIPIENT will determine the amount of the balance due to the RECIPIENT.

Signature: _____

RECIPIENT printed name and title:

Date: _____

Please email inquiries and all documents to:

Elizabeth Loudon, Grant Administrator
Wastewater Treatment Division
Phone: 206-477-4297 Email: water.grants@kingcounty.gov

EXHIBIT I: NARRATIVE CLOSEOUT REPORT



**Water Quality Improvement Project
Narrative Closeout Report**

Project Name _____

Recipient _____

Total Award _____

Project Contact _____

Address _____

City/State _____

Phone _____

Email _____

Grant Agreement Dates *Start Date – End Date* _____

Date Reporting *Today's Date* _____

Instructions: *In narrative format, summarize the project accomplishments and successes, regional benefits, project performance, obstacles and challenges, lessons learned, and recommendations for future comparable projects. Attach copies of all project materials and publications as well as photos from your project.*

Project Performance

Please quantify all fields below that are applicable to your project and for which you have data; add any other quantifiable data that is pertinent, including units (e.g. square feet, volunteer hours, gallons/year).

- | | |
|-------------------------------------|------------------------------|
| Wastewater Captured and Treated | Volunteer Hours |
| Stormwater Runoff Captured | Events Organized Tours Given |
| Stormwater Runoff Diverted | Event Attendance |
| Best Management Practices Installed | People Engaged |
| Rain Gardens Installed | Presentations Given |
| Cisterns Installed | Materials Created |
| Water Saved | Materials Distributed |
| Sites Restored | Languages Provided |
| Site Depaved | Communities Served |
| Native Plants Installed | Project Partners |
| Organizations Engaged | Social Media Followers |
| Ambassadors Recruited | Website Visits |
| Active Volunteers | Earned Media Stories |

Regional Water Quality Benefits

What difference did this project make in supporting King County WTD's water quality mission, and create a benefit to or improvement of water quality within WTD's service area?

Project Accomplishments and Successes

Please describe the notable accomplishments and success of your project, both anticipated and unanticipated.

Obstacles and Challenges

Please describe any obstacles or challenges you faced while carrying out this project.

Lessons Learned and Recommendations for Future Projects

Please describe any lessons learned from both successes and failures alike. What strategies worked well that might be replicated elsewhere and what approaches fell short of expectations? Why?

Project Materials and Photos (list here and attach)

Please email inquiries and all documents to:

Elizabeth Loudon, Grant Administrator
Wastewater Treatment Division
Phone: 206-477-4297 Email: water.grants@kingcounty.gov

EXHIBIT J: FUNDING AUTHORITY

The funding authority for this AWARD comes from the COUNTY, through its Department of Natural Resources and Parks, which operates a regional system of sewage treatment and conveyance facilities for which it collects charges from local governments. Said charges constitute the source of revenue for operation of the COUNTY's sewage treatment system. By agreement with said local governments, this revenue can be used only to fund expenditures that are related to the development, operation, maintenance, and replacement and improvement of said system. By budget authority, the COUNTY funds activities related to the regional water quality objectives advanced by the development of the sewage treatment system.

Capital Plan 2015 - 2020

Project for the	Stormwater Department	#	D2
<i>PROJECT TITLE</i>	North Commercial and SR 169 Stormwater Treatment Pond		13.15

DESCRIPTION Collect storm water runoff from the main commercial area in north Black Diamond and from State Route 169 and route to city property north of the library. Construct a wetpond or vault for pre-treatment followed by constructed wetlands to dispersion trenches for discharge to upland above Ginder Creek.

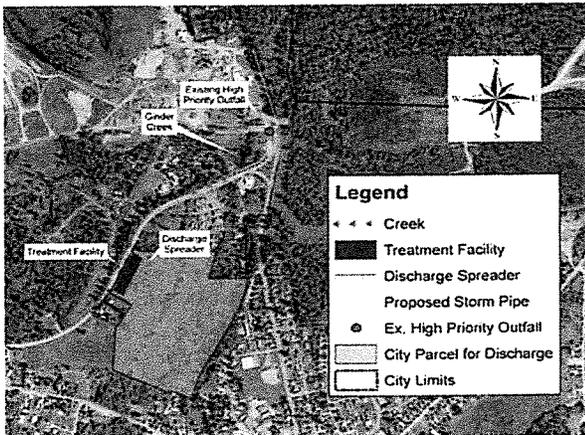
BACKGROUND Whereas there is a total maximum daily load (TMDL) on Lake Sawyer for phosphorous, the city should look for opportunities to reduce phosphorous inputs from existing untreated stormwater discharges. Stormwater outfall discharges from the commercial area and the state route appear to have the highest pollutant loadings as compared to other City stormwater outfalls.

COMMENTS The City obtained a grant from the Department of Ecology to design this project. With a completed design at 90%, the City will have a well defined project and will use the detailed information to improve grant applications.

Final Engineering prepare bid docs
 Construction
 Management / Administration
TOTAL COSTS

SOE Grant
 Grant Matching
TOTAL SOURCES

Capital Plan 2015 - 2020						
Total \$ Requested 2015 - 2020	2015	2016	2017	2018	2019	2020
20,000		20,000				
850,000			850,000			
		5,000	35,000			
870,000	-	20,000	850,000	-	-	-
Total \$ Requested 2015 - 2020	2015	2016	2017	2018	2019	2020
850,000			850,000			
20,000		20,000				
870,000	-	20,000	850,000	-	-	-



10/29/14



36

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 16-0000, confirming the Mayor's appointment to the Planning Commission	Agenda Date: May 5, 2016	
	AB16-030	
	Mayor Carol Benson	X
	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	
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: Resolution No. 16-0000; application		
SUMMARY STATEMENT: Staff advertised for the vacancy on the Planning Commission due to the resignation of Gary Davis; the City received two applications. An interview committee consisting of Mayor Benson, Councilmember Edelman, and Councilmember Deady interviewed both applicants on April 8, 2016. After careful consideration, the Mayor is seeking confirmation of her appointment of Jason Seth to the Black Diamond Planning Commission Position No. 7, with said term to expire December 31, 2017. FISCAL NOTE (Finance Department): N/A		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-0000 (Clerk will assign number at adoption), authorizing the Mayor's Planning Commission appointment of Jason Seth to the Black Diamond Planning Commission Position No. 7.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
May 5, 2016		

RESOLUTION NO. 16-0000

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
CONFIRMING THE MAYOR'S APPOINTMENT TO THE
PLANNING COMMISSION**

WHEREAS, in accordance with Black Diamond Municipal Code 2.24.010, members of the Planning Commission shall be appointed by the Mayor and confirmed by the City Council; and

WHEREAS, this Resolution confirms the Mayor's appointment to the City of Black Diamond Planning Commission;

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

Section 1. That the Mayor's appointment of Jason Seth to the City of Black Diamond Planning Commission Position No. 7 is hereby confirmed; said term to expire on December 31, 2017.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT
A SPECIAL MEETING THEREOF, THIS 5TH DAY OF MAY, 2016.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



CITY OF BLACK DIAMOND

Commission Application

PO Box 599 - 24301 Roberts Drive

Black Diamond, WA 98010

Phone: 360.886.5700 - Fax: 360.886.2592

Name: Jason Seth

Address: 32105 Sunny Ln

Home Phone: 425-306-8994

Business Phone: 425-430-6502

Email address: jasonseth@msn.com

How long at Residence: 3 years in July

Best time to contact: After 5 p.m.

Commission desired: 1.) Planning Commission

2.) _____

Reason you are interested in serving: I would like to help guide the City's future development, land use actions, tree preservation regulations, and economic development goals.

Previous community activities: I have volunteered at homeless shelters in Renton, Renton's One Night Count, Arbor Day/Earth Day Events, and I have served senior citizens Thanksgiving dinner for the past five years.

Applicable education, occupational, and specialized experience: 11+ years municipal service as Records Mgr., Deputy City Clerk, and current City Clerk. I have extensive knowledge of RCWs, WACs, and legal processes.

Commissions make recommendations regarding monetary expenditures and/or benefits to certain areas of the Community.

1.) Can you foresee possible conflicts of interest with any of your current employment or civic positions:

I see no conflict of interest

2.) When making these recommendations do you feel you could be impartial and base your decision on the overall need and benefit of the Community: Yes.

Are there any days or evenings you are unavailable to meet? I cannot work Monday nights.

Signature: _____

Date: 3/9/2016

Please return completed form and any additional information to:
City of Black Diamond - Attn: City Clerk, 24301 Roberts Drive., PO Box 599, Black Diamond, WA 98010
For more information please call (360) 886-5700

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: A Resolution authorizing the Mayor to execute an Interlocal Agreement with the City of Maple Valley for building inspection services.	Agenda Date: May 5, 2016	
	AB16-031	
	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): Annually \$48,000 Budgeted		
Fund Source: --Building Permit Revenue	Public Works – Seth Boettcher	
Timeline: 2016	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: Resolution No. 16- 0000 ; Interlocal Agreement		
SUMMARY STATEMENT: Maple Valley has been providing building inspection services for several years under a tri-party Interlocal Agreement between Black Diamond, Maple Valley, and Covington. Under this Agreement, Covington conducted plans review and provided the services of their Building Official. This Agreement was established because of the City's financial constraints to hire its own staff to perform these duties. The tri-party Interlocal was terminated on March 14, 2016 due to several issues involving staff's concerns about Covington's delivery of services. The termination letter requested that Covington stop work immediately and for Maple Valley to continue doing inspections for 60-days as specified in the Agreement's termination clause. Staff identified a qualified consultant (BHC) to fulfill all of the necessary building service functions as needed. A Resolution was presented to Council on March 17, 2016 requesting Council approval for the Mayor to execute this contract. Staff has also worked with Maple Valley for a new two-party Interlocal Agreement to have Maple Valley continue doing inspections because this arrangement has been very positive. This Resolution is the result of these discussions, to approve an Interlocal Agreement between Black Diamond and Maple Valley for Building Inspection Services. The BHC Personal Services Agreement is still needed for plans review and to fulfill the City's legal requirement to have a designated Building Official. In the event that Maple Valley's inspectors cannot perform inspections, then BHC could do them. The cost associated with all building services is paid by		

the development permit. The City budget supports this action.

Staff recommends passing the Resolution for an Interlocal Agreement with the City of Maple Valley for building inspection services.

FISCAL NOTE (Finance Department): The 2016 Budget includes \$48,000 for Building Official Costs, with Building Permit Revenue Budgeted to cover these costs.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to adopt the Resolution No. 16-0000 (Clerk to assign at adoption), authorizing the Mayor to execute an Interlocal Agreement with the City of Maple Valley for building inspection services.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 5, 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
INTERLOCAL AGREEMENT WITH THE CITY OF MAPLE
VALLEY FOR BUILDING INSPECTION SERVICES**

WHEREAS, Black Diamond and Maple Valley are public agencies as defined by Ch. 39.34 of the Revised Code of Washington ("RCW"), and are authorized to enter into Interlocal Agreements on the basis of mutual advantage and thereby to provide services and facilities in the manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs of the local communities; and

WHEREAS, Maple Valley maintains building division staff that regularly conducts building inspections; and

WHEREAS, although building activity has been increasing, there is currently not enough building permit activity to allow the City to maintain its own building division staff; and

WHEREAS, the City of Black Diamond has been using building inspection services from the City of Maple Valley under a tri-party Interlocal Agreement that also included the City of Covington; and

WHEREAS, the tri-party Interlocal Agreement was terminated on March 14, 2016 and the City wants to continue using the building inspection services from the City of Maple Valley;

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

Section 1. The Mayor is authorized to execute an Interlocal Agreement with the City of Maple Valley for building inspection services, substantially in the form as Attachment A.

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

**INTERLOCAL AGREEMENT
BETWEEN
MAPLE VALLEY AND BLACK DIAMOND
FOR
BUILDING INSPECTION SERVICES**

RECITALS

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into between the City of Maple Valley, a Washington municipal corporation ("Maple Valley"), and the City of Black Diamond, a Washington municipal corporation ("Black Diamond"), (collectively the "Parties" or "Cities" or in the singular "Party" or "City").

WHEREAS, the Parties are "public agencies" as defined by Chapter 39.34 of the Revised Code of Washington (RCW) and through the provisions of that chapter are authorized by state law to enter into interlocal agreements on the basis of mutual advantage and thereby to provide services and facilities in the manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs of local communities; and

WHEREAS, the Parties have similar building inspection needs and each Party can realize certain economies from sharing resources, thereby providing savings to taxpayers through contracting for shared services; and

WHEREAS, each Party has agreed to compensate a Party for services offered under this Agreement;

NOW THEREFORE, in consideration of the mutual promises contained herein, it is agreed between the Parties as follows:

AGREEMENT

- 1. Purpose.** It is the purpose of this Agreement to utilize the provisions of state law to enable the Parties to take advantage of economies of scale in sharing resources by Maple Valley offering building inspection services to Black Diamond.
- 2. Services.** Maple Valley (the "Providing Party") agrees to offer the following services ("Offered Service(s)") to Black Diamond upon request (the "Requesting Party") pursuant to the following.
 - 2.1. Offered Services.**
 - 2.1.1. Building Inspection.** Maple Valley agrees to offer building inspection services, performed by Maple Valley's Building Inspectors, to the Requesting Party.

2.1.2. Warranty. The Providing Party represents and warrants that their building inspectors have the requisite licensing, certification, training, skill, and experience necessary to provide the services offered under this Agreement. The Providing Party's building inspectors will perform the services under this Agreement in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

2.2. Requests for Offered Services. The Requesting Party shall submit a written request to the Providing Party for performance of an Offered Service, including any and all needs, specifications, or standards that must be considered. Such written request must be made by the Requesting Party's Community Development Director or authorized designee. For the purposes of this sub-section, the Parties agree that a written request may be submitted by a Requesting Party to a Providing Party via email.

2.3. Acceptance of Request for Offered Services. The Providing Party shall respond to a written request for an Offered Service with a written acceptance or denial within seventy-two (72) hours of receipt of a written request ("Response Period"). Weekends and legal holidays of the Providing Party shall not be calculated as part of the Response Period (*i.e.* a written request for services received by the Providing Party at 2pm on a Thursday shall be responded to by the Providing Party no later than 2pm on the following Tuesday). The Providing Party may deny a request for an Offered Service at its sole discretion and without reason. Such written acceptance or denial of a request for an Offered Service must be issued by the Providing Party's Community Development Director or authorized designee. For the purposes of this sub-section, the Parties agree that a written acceptance or denial may be issued by the Providing Party to the Requesting Party via email.

2.4. Providing Party Administrative Oversight. The Providing Party shall have administrative oversight of the Offered Service requested and shall be responsible for invoicing the Requesting Party for the Offered Service rendered pursuant to Section 4 herein.

3. Term of Agreement. This Agreement shall become effective as of the date this Agreement is approved by the legislative bodies of Maple Valley and Black Diamond. Unless terminated by all Parties pursuant to the terms of this Agreement, this Agreement shall remain in full force and effect until December 31, 2017. This Agreement may be extended by written agreement of the Parties subject to the approval of such extension by each Party's legislative body.

4. Payment. The Requesting Party shall pay for Offered Services provided by the Providing Party pursuant to the following.

4.1. Payments for Offered Services. A Requesting Party shall pay for actual direct and related indirect costs, including any overhead and administrative charges, for Offered Services provided by the Providing Party pursuant to the fees listed for each in Exhibit A, attached hereto and incorporated herein by this reference (the "Service Fees").

4.1.1. Annual Adjustment of Service Fees. The Providing Party may annually adjust their respective Service Fees, beginning January 2017. Adjustments to Service Fees must be based on the local CPI-U January-to-January rate and/or changes in the local market that can be quantified. Adjustments may also be based on an annual cost study conducted by the Providing Party reflecting the increased cost to the Providing Party for the services provided to the Requesting Party under this Agreement. In no event may the Providing Party increase their Service Fees more than four percent (4%) each calendar year. The respective city manager, city administrator, or mayor of the Providing Party shall provide the Requesting Party with sixty (60) days advance written notice of the effective date of, and basis for, Service Fees adjusted pursuant to this subsection.

4.2. Billing. The Providing Party shall submit a monthly invoice to the Requesting Party, which shall contain the amount of Offered Services provided during the preceding month. Payment shall be made by the Requesting Party within thirty (30) days of receipt of said invoice from the Providing Party.

4.3. Billing Disputes. In the event there is a dispute regarding an invoiced amount by the Providing Party, the Parties in dispute shall make every effort to resolve such dispute by mutual agreement. In the event there is no mutually agreed resolution to the dispute, the Parties shall forward the dispute to each Party's City Manager/City Administrator/Mayor for resolution. In the event there is no resolution after review by the Parties' City Manager/City Administrator/Mayor, the Parties shall seek mediation through a mutually agreed mediation service and each Party shall bear its own costs for mediation. If mediation is unsuccessful, either Party may pursue any legal remedy available from a court of competent jurisdiction. Any dispute that has gone to mediation and mediation was unsuccessful in resolving the dispute shall be grounds for either Party to terminate this Agreement for material breach.

5. Termination.

5.1. Termination by Notice. Either Party may terminate its participation in this Agreement by providing the other Parties with sixty (60) days advance written notice of the effective date of such termination. The Party providing such notice shall remain responsible for any costs incurred under this Agreement.

5.2. Termination by Mutual Written Agreement. This Agreement may be terminated in its entirety at any time by a written agreement executed by both of the Parties.

5.3. Termination for Breach. Either Party may terminate its participation in this Agreement for material breach of the terms of this Agreement upon fourteen (14) days advance written notice to the other Party, provided that disputes regarding billing statements shall be handled pursuant to Subsection 4.3 and shall not be deemed a breach of this Agreement except as set forth in Subsection 4.3.

6. Indemnification and Hold Harmless.

6.1. The Providing Party shall defend, indemnify and hold the City of Black Diamond, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Providing Party in performance of this Agreement, except for injuries and damages caused by the sole negligence of Black Diamond.

6.2. 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 property caused by or resulting from the concurrent negligence of the Providing Party and the Receiving Party, its officers, officials, employees, and volunteers, the Providing Party liability, including the duty and cost to defend, hereunder shall be only to the extent of the Providing Party negligence. **It is further specifically and expressly understood that the indemnification provided herein constitutes the Providing Party's waiver of immunity under the Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.**

6.3. In the event the acts or omissions of the officials, officers, agents, and/or employees of either Party in connection with or incidental to the performance or non-performance of Offered Services, duties, or obligations under this Agreement are the subject of any liability claims by a third party, both Parties shall each be liable for its proportionate concurrent negligence in any resulting suits, actions, claims, liability, damages, judgments, costs, and expenses and for their own attorneys' fees.

6.4. Nothing contained in this section or this Agreement shall be construed to create a right in any third party to indemnification.

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

7. Insurance. The Providing Party shall procure and maintain for the duration of this 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 Providing Party, its agents, representatives, or employees.

7.1. No Limitation. Providing Party maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Providing Party to the coverage provided by such insurance, or otherwise limit the Requesting Party's recourse to any remedy available at law or in equity.

7.2. Minimum Scope of Insurance. The Providing Party shall obtain insurance of the types described below:

7.2.1. Automobile Liability insurance covering all owned non-owned, hired and leased vehicles. If necessary, the policy shall be endorsed to provide contractual liability coverage.

- 7.2.2. General Liability insurance shall be written on an occurrence form and shall cover liability arising from premises, completed operations, independent contractors and personal injury and advertising injury.
- 7.2.3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

7.3. Minimum Amounts of Insurance. The Providing Party shall maintain the following insurance limits:

- 7.3.1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 Combined Single Limit per accident.
- 7.3.2. Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$10,000,000 general aggregate.

7.4. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, and General Liability insurance:

- 7.4.1. The Providing Party's insurance coverage shall be primary insurance as respect to the Requesting Party. Any insurance, self-insurance, or insurance pool coverage maintained by the Requesting Party shall be excess of the Providing Party's insurance and shall not contribute with it.
- 7.4.2. The Requesting Party will not waive its right to subrogation against the Providing Party. The Providing Party's insurance shall be endorsed to waive the right of subrogation against the Requesting Party, or any self-insurance, or insurance pool coverage maintained by the Requesting Party.
- 7.4.3. The Providing Party's insurance shall not be cancelled by any party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the other Party to this Agreement.
- 7.4.4. 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 other Party to this Agreement.

7.5. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII, or as a risk pool, approved by and in good standing with the State of Washington Office of Risk Management.

7.6. Verification of Coverage. The Providing Party shall furnish the other Party to this Agreement with proof of coverage evidencing the insurance requirements of the Providing Service provider before commencement of the Offered Services.

8. Independent Service Provider.

8.1. The Parties intend that an independent contractor relationship is created by this Agreement. In providing Offered Services under this Agreement, the Providing Party is an independent contractor and neither it nor its officers, agents, or employees are

employees of the Requesting Party for any purpose, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of Offered Services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the Providing Party under any applicable law, rule, or regulation. Nothing in this Agreement is intended to create an interest in or give a benefit to third persons not signing as a party to this Agreement. As an independent contractor, the Providing Party shall be responsible for the reporting and payment of all applicable local, state, and federal taxes. No agent, employee, or representative of the Providing Party shall be deemed to be an employee, agent, or representative of the Requesting Party for any purpose, and the employees of the Providing Party are not entitled to any of the benefits that the Requesting Party provides for its employees.

8.2. In the performance of the Offered Services herein the Providing Party is an independent contractor with the authority to control and direct the performance of the details of the Offered Services; however, the results of the Offered Services herein must meet the approval of the Requesting Party and shall be subject to the Requesting Party's general rights of inspection and review to secure the satisfactory completion thereof. The Providing Party shall be solely and entirely responsible for its acts and for the acts of its agents, employees, or representatives performed within the authorized scope of its agents, employees, or representatives' duties during the performance of this Agreement.

9. Miscellaneous.

9.1. Notices. Notwithstanding Sub-sections 2.2 and 2.3 herein, notices to be provided pursuant to this Agreement shall be provided in writing to the person and address indicated below. Notices shall be deemed delivered three (3) days after placement of the notice in the U.S. Mail, first class postage pre-paid. Courtesy copies of notices may be provided via email transmission but shall not constitute delivery of written notice as set forth herein.

9.1.1. City of Maple Valley
Community Development Director
22017 SE Wax Road, Suite 200
Maple Valley, WA 98038

9.1.2. City of Black Diamond
Community Development Director
24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

9.2. Non-Waiver of Breach. The failure of either Party to insist upon strict performance of any of the covenants and agreements contained in this Agreement shall not be construed to be a waiver or relinquishment of those covenants, agreements, or options, and the same shall be and remain in full force and effect.

9.3. Resolution of Disputes and Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Subject to Sub-section 4.3, if the Parties are unable to settle any dispute, difference, or claim arising from the Parties' performance of this Agreement, the exclusive means of resolving that dispute, difference, or claim shall only be by filing suit exclusively under the venue, rules, and jurisdiction of the King County Superior Court, King County, Washington, unless the Parties agree in writing to an alternative dispute resolution process.

9.4. Assignment. This Agreement is not assignable by either Party, in whole or in part.

9.5. Modification. Except as provided for in Subsection 4.1.1, no waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless made in writing and approved by the legislative body of each city.

9.6. Compliance with Laws. Both Parties agree to comply with all local, federal, and state laws, rules, and regulations that are now effective or in the future become applicable to this Agreement.

9.6.1. Nondiscrimination in Employment. In the performance of this Agreement, neither Party will discriminate against any employee on the grounds of race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age, nor other basis prohibited by state or federal law unless based upon a bona fide occupational qualification. Both Parties shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state, and federal laws prohibiting discrimination in employment.

9.6.2. Nondiscrimination in Services. Neither Party will discriminate against any recipient of any Services provided for in this Agreement on the grounds of race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age, or other basis prohibited by state or federal law.

9.7. Entire Agreement. The written terms and provisions of this Agreement, together with any exhibits attached hereto, shall supersede all prior communications, negotiations, representations or agreements, either verbal or written, of any officer, employee, or other representative of each party and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the exhibits are hereby made part of this Agreement. Should any of the language of any exhibits to this Agreement conflict with any language contained in this Agreement, the language of this document shall prevail.

9.8. Severability. If any provision of this Agreement, in whole or in part, is adjudicated to be invalid, such action shall not affect the validity of any provision not so adjudicated.

9.9. Interpretation. The legal presumption that an ambiguous term of this Agreement should be interpreted against the Party who prepared the Agreement shall not apply.

9.10. No Third Party Beneficiaries. This Agreement is between the Parties and is not meant to benefit any third party.

IN WITNESS WHEREOF, the Parties below execute this Agreement, which shall become effective pursuant to the terms of Section 3, herein.

<p>CITY OF BLACK DIAMOND:</p> <p>By: _____ (signature)</p> <p>Print Name: <u>Carol Benson</u></p> <p>Its <u>Mayor</u></p> <p>DATE: _____</p>	<p>CITY OF MAPLE VALLEY:</p> <p>By: _____ (signature)</p> <p>Print Name: <u>David W. Johnston</u></p> <p>Its <u>City Manager</u></p> <p>DATE: _____</p>
<p>ATTESTED BY:</p> <p>_____ City Clerk</p>	<p>ATTESTED BY:</p> <p>_____ City Clerk</p>
<p>APPROVED AS TO FORM ONLY:</p> <p>_____ City Attorney</p>	<p>APPROVED AS TO FORM ONLY:</p> <p>_____ Patricia Taraday, City Attorney</p>

EXHIBIT A
PROVIDING PARTIES' SERVICE FEES—2016 - 2017

- 1. Maple Valley Service Fees**
 - (a) Building Inspection Services of Building Inspectors-Hourly fee of \$75.00, which includes vehicle and travel costs.**
- 2. Services Fees may be reviewed annually by each Providing Party pursuant to Subsection 4.1.1.**

DRAFT

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 16-0000, authorizing the Mayor to execute a contract with Lakeridge Paving Company LLC for the Jones Lake Road Overlay project	Agenda Date: May 5, 2016	
	AB16-032	
	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): \$77,415.20	Police – Chief Kiblinger	
Fund Source: TIB Grant (90%); REET (10%)	Public Works – Seth Boettcher	X
Timeline: Summer 2016	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution 16-0000; Lakeridge Bid; Bid Tabulation; Contract; Special Provisions (page 1); Plans (page 1); Budget Sheet		
SUMMARY STATEMENT: Public Works staff was successful in receiving a grant from the Washington State Transportation Improvement Board (TIB) for the Jones Lake Road Overlay project (Resolution 15-1058). The design and bid materials were prepared by Public Works staff. Staff utilized the City's Small Works Roster to solicit bids from contractors on April 14, 2016. A total of eight bids were received on April 25, 2016. Lakeridge Paving Company LLC provided the lowest responsive bid at \$77,415.20. The eight bids ranged from \$77,415.20 to \$124,440.00. The City's estimate for the construction of this project was \$119,537.50. This project will patch, widen, then overlay with asphalt Jones Lake Road from State Route 169 (Third Ave.) to the end of paving that occurred as part of the Railroad Avenue project. With the bids coming in well under budget, the staff is asking for a \$42,000 contingency to expand the paving limits and fully utilize the grant funds. The contingency authorization will be to cover unexpected conditions or issues as well as expanding the project. A new street segment will be submitted for TIB approval. FISCAL NOTE (Finance Department): The City had budgeted \$165,000 for the Jones Lake Road Overlay project. The city may not use the entire budgeted amount. The grant will cover 90% of all costs (including staff labor) with the City covering the other 10% with Real Estate Excise Tax funds. See the attached budget estimate sheet for more information.		

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to adopt Resolution 16-0000 (Clerk to assign number at adoption), authorizing the Mayor to execute a \$77,415.20 contract with Lakeridge Paving Company LLC for the Jones Lake Road Overlay project and authorizing a \$42,000 contingency fund for the construction of this project.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 5, 2016		

RESOLUTION NO. 16-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AWARDING THE LOW BID ON THE JONES LAKE ROAD
OVERLAY PROJECT TO LAKERIDGE PAVING COMPANY
LLC**

WHEREAS, the City received a Fuel Tax Grant from the Washington State Transportation Improvement Board (TIB); and

WHEREAS, the City has planned and budgeted for the Jones Lake Road Overlay project; and

WHEREAS, the City has received 8 bids on April 25, 2016; and

WHEREAS, Lakeridge Paving Company LLC was the lowest responsive bidder and has met all conditions of providing a responsible bid;

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

Section 1. The Mayor is hereby authorized to award the bid for the construction of the Jones Lake Road Overlay project to Lakeridge Paving Company LLC in the amount of \$77,415.20 and authorize the Mayor to execute a contract for the same.

Section 2. Authorize a \$52,000 contingency fund to cover change orders and potential expansion of the paving limits for the Jones Lake Road Overlay project.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF MAY, 2016.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**REQUEST FOR BIDS
FOR
JONES LAKE ROAD OVERLAY PROJECT
CITY OF BLACK DIAMOND**

The City is requesting asphalt grinding, patching and overlay work for Jones Lake Road from Railroad Avenue to State Route 169 in the City of Black Diamond. The City is requesting unit price bids for each category of work as defined in the attached bid proposal form/Scope of Work.

The cut and patch marks on the street delineate the intended failed pavement removal only as measured longitudinally along the roadway and are not meant to delineate patch width. The City will freshen the patch delineation striping on the roadway after award of the project (see Plans).

Small Works Roster bids must be turned into Scott Hanis in the Community Development Building, located at 24301 Roberts Drive, Black Diamond, WA 98010, by 3:00 pm on Monday, April 25, 2016. Hard copy bids must be signed. E-mailed bids will also be accepted. E-mailed bids must be submitted in pdf form and contain a signature. If the apparent low bidder submitted an electronic bid, the bidder must provide a signed paper copy prior to notice of award. E-mailed bids shall be sent to and received by Scott Hanis: shanis@ci.blackdiamond.wa.us by 3:00 pm at the time stated above. The City will not accept late e-mail submittals or those delayed due to file sizes or incorrect e-mail addresses. An acknowledgment that the bid was received will be sent. All contract documents, plans, specifications, and addenda will be published on the City's Small Works page on the City's website:
http://ci.blackdiamond.wa.us/Depts/PubWorks/works_roster.html.

Invitations to bid will be sent to all contractors registered on the City's Small Works Roster located at <http://www.mrscrosters.org> under the category of "Roadway Construction, Repair, and Maintenance" and sub-categories of "Asphalt Pavement Grinding, Planing and Pulverization", "Asphalt Pavement Roadways", and "Roadway Construction" at the time of advertisement. Bids will also be accepted from contractors registered on the Small Works Roster at the time of bid closing. .

Bid guarantees will not be required for this bid. There will not be a public opening of bids.

REQUEST FOR BIDS

**CITY OF BLACK DIAMOND
Jones Lake Road Overlay Project**

BID FORM, SCOPE OF WORK, AND SPECIAL PROVISIONS

The City of Black Diamond is hereafter referred to as "the City."

1. The undersigned hereby certifies that he/she has examined the locations of the patching as outlined in the bid documents for the City of Black Diamond Jones Lake Road Overlay Project and is familiar with the local conditions at the location of the work to be done, and has read and thoroughly understands the work that the City requires to be completed, the Contract governing the work and the method by which payment will be made for said work in accordance with the City Contract at the proposed bid prices contained herein.
2. The bid shall be awarded by the sum of the total of the bids for the 10 categories of work.

The undersigned has checked the amounts below and understands that the City will not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

In order for the Owner to consider a bid, all items on the bid must be filled in completely.

3. It is agreed that this bid may not be withdrawn within a period of sixty (60) days after the date set for the opening thereof.
4. In accordance with this bid and the City Contract, the undersigned further agrees to so plan the work and to prosecute it with such diligence that said work shall be commenced within ten (10) days after issuance of a notice to proceed.
5. Receipt of the following Addenda to the Plans and/or Specifications is hereto acknowledged:

Addendum		
<u>No.</u>	<u>Addendum Receipt Date</u>	<u>Signed Acknowledgement</u>
1.	0 _____	_____
2.	_____	_____

NOTE: Failure to acknowledge receipt of the Addenda may be considered as an irregularity in the Bid.

6. The undersigned hereby proposes to complete the attached scope of work and hourly rates at the following prices according to the City Contract, this Bid, and the Bid Solicitation:

ITEM NO.	ITEM DESCRIPTION	UNIT	UNIT PRICE	QTY	TOTAL
1	Mobilization \$ <u>Three Thousand Five Hundred No Cents</u> Per LS Unit Price in Words	LS	\$ 3,500.00	1	\$ 3,500.00
2	Project Temporary Traffic Control \$ <u>Four Thousand Dollars No Cents</u> Per LS Unit Price in Words	LS	\$ 4,000.00	1	\$ 4,000.00
3	Removing Asphalt Concrete Pavement, Incl. Haul \$ <u>Eight Dollars And FourtyThreeCents</u> Per SY Unit Price in Words	SY	\$ 8.43	960	\$ 8,092.80
4	Unsuitable Foundation Excavation, Incl. Haul \$ <u>One Hundred Dollars And No Cents</u> Per CY Unit Price in Words	CY	\$ 100.00	30	\$ 3,000.00
5	Crushed Surfacing Top Course for Shoulder Rock \$ <u>SixtyFive Dollars And No Cents</u> Per TON Unit Price in Words	TON	\$ 65.00	35	\$ 2,275.00
6	Planing Bituminous Pavement \$ <u>Twenty Five Dollars And EightyFour Cents</u> Per SY Unit Price in Words	SY	\$ 25.84	110	\$ 2,842.40
7	HMA Cl. ½ In. PG 64-22 for Pavement Repair \$ <u>Ninty Dollars And Fifteen Cents</u> Per TON Unit Price in Words	TON	\$ 90.15	210	\$ 18,931.50
8	HMA Cl. ½ In. PG 64-22 for Overlay \$ <u>Seventy Five Dollars And Thirty Cents</u> Per TON Unit Price in Words	TON	\$ 75.30	395	\$ 29,743.50
9	Monument Case and Cover \$ <u>Five Hundred Dollars And No Cents</u> Per EA Unit Price in Words	EA	\$ 500.00	2	\$ 1,000.00
10	Paint Line \$ <u>One Dollar And No Cents</u> Per LF Unit Price in Words	LF	\$ 1.00	4030	\$ 4,030.00
TOTAL AMOUNT BID					\$ 77,415.20

Lakeridge Paving Company LLC
Bidder

4/25/2016
Date

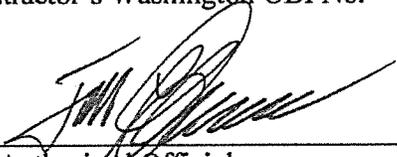
LAKERPC050JM

Contractor's License No.

601 592 135

Contractor's Washington UBI No.

By


Authorized Official

Jon Cheetham - Managing Member

Address:

PO BOX 8500

Covington WA 98042

NOTES: 1. If the bidder is a co-partnership, so state, giving firm name under which business is transacted.
2. If the bidder is a corporation, this bid must be executed by its duly authorized officials.

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

Project: Jones Lake Road Overlay
 Bid Opening: April 25, 2016

Item	Section	Item Description	Bidder & Address		Lakeridge Paving Co. PO Box 8500 Covington, WA 98042		Sutter Paving Inc. 775 4th Ave. NW Issaquah, WA 98027		Tony Lind Paving LLC 23048 172nd Ave. SE Kent, WA 98042	
			Unit	Qty.	Unit Bid	Amount	Unit Bid	Amount	Unit Bid	Amount
1	1-09	Mobilization	LS	1	\$3,500.00	\$3,500.00	\$1,000.00	\$1,000.00	\$2,081.04	\$2,081.04
2	1-10	Project Temporary Traffic Control	LS	1	\$4,000.00	\$4,000.00	\$4,400.00	\$4,400.00	\$2,550.00	\$2,550.00
3	2-02	Remove Asphalt Concrete Pavement	SY	960	\$8.43	\$8,092.80	\$6.50	\$6,240.00	\$10.00	\$9,600.00
4	2-03	Unsuitable Foundation Excavation	CY	30	\$100.00	\$3,000.00	\$20.00	\$600.00	\$28.00	\$840.00
5	5-04	Planing Bituminous Pavement	TON	35	\$65.00	\$2,275.00	\$189.00	\$6,615.00	\$30.86	\$1,080.10
6	4-04	Crushed Surfacing Top Course for Shoulder	SY	110	\$25.84	\$2,842.40	\$6.50	\$715.00	\$37.00	\$4,070.00
7	5-04	HMA Ci. 1/2 In. PG 64-22 for Pavement Repair	TON	210	\$90.15	\$18,931.50	\$106.00	\$22,260.00	\$114.82	\$24,112.20
8	5-04	HMA Ci. 1/2 In. PG 64-22 for Overlay	TON	395	\$75.30	\$29,743.50	\$88.00	\$34,760.00	\$99.82	\$39,428.90
9	8-13	Monument Case and Cover	EA	2	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$164.10	\$328.20
10	8-22	Paint Line	LF	4030	\$1.00	\$4,030.00	\$0.50	\$2,015.00	\$0.65	\$2,619.50
TOTAL CONTRACT AMOUNT BID						\$77,415.20		\$79,605.00		\$86,709.94

***Mathematical error in bid had no effect on bid results*

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

Project: Jones Lake Road Overlay
 Bid Opening: April 25, 2016

Item	Section	Item Description	Bidder & Address		Lakeside Industries, Inc. 18808 SE 256th St. Covington, WA 98042		Northwest Asphalt 10430 Renton Iss. Rd SE Issaquah, WA 98027		AA Asphalting LLC 14720 Puyallup Street Sumner, WA 98360			
			Unit	Qty.	Unit Bid	Amount	Unit Bid	Amount	Unit Bid	Amount		
1	1-09	Mobilization	LS	1	\$6,500.00	\$6,500.00	\$4,000.00	\$4,000.00	\$480.00	\$480.00		
2	1-10	Project Temporary Traffic Control	LS	1	\$5,000.00	\$5,000.00	\$9,500.00	\$9,500.00	\$4,110.00	\$4,110.00		
3	2-02	Remove Asphalt Concrete Pavement	SY	960	\$9.00	\$8,640.00	\$12.00	\$11,520.00	\$17.00	\$16,320.00		
4	2-03	Unsuitable Foundation Excavation	CY	30	\$50.00	\$1,500.00	\$67.00	\$2,010.00	\$61.00	\$1,830.00		
5	5-04	Planing Bituminous Pavement	TON	35	\$35.00	*\$1,225.00	\$122.00	\$4,270.00	\$55.00	\$1,925.00		
6	4-04	Crushed Surfacing Top Course for Shoulder	SY	110	\$25.00	\$2,750.00	\$25.00	\$2,750.00	\$30.00	\$3,300.00		
7	5-04	HMA Cl. 1/2 In. PG 64-22 for Pavement Repair	TON	210	\$115.00	\$24,150.00	\$109.00	\$22,890.00	\$150.00	\$31,500.00		
8	5-04	HMA Cl. 1/2 In. PG 64-22 for Overlay	TON	395	\$95.00	\$37,525.00	\$90.00	\$35,550.00	\$125.00	\$49,375.00		
9	8-13	Monument Case and Cover	EA	2	\$500.00	\$1,000.00	\$450.00	\$900.00	\$412.00	\$824.00		
10	8-22	Paint Line	LF	4030	\$0.50	\$2,015.00	\$0.82	\$3,304.60	\$1.20	\$4,836.00		
					TOTAL CONTRACT AMOUNT BID		*\$90,305.00		\$96,694.60		\$114,500.00	

*Mathematical error in bid had no effect on bid results

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

Project: Jones Lake Road Overlay
 Bid Opening: April 25, 2016

Item	Section	Item Description	Bidder & Address		Pugent Paving & Const. 10817 26th Ave. S. Lakewood, WA 98499		Watson Asphalt Paving PO Box 845 Redmond, WA 98073		Engineer's Estimate	
			Unit	Qty.	Unit Bid	Amount	Unit Bid	Amount	Unit Bid	Amount
1	1-09	Mobilization	LS	1	\$7,000.00	\$7,000.00	\$18,200.00	\$18,200.00	\$12,000.00	\$12,000.00
2	1-10	Project Temporary Traffic Control	LS	1	\$13,000.00	\$13,000.00	\$11,400.00	\$11,400.00	\$1,000.00	\$1,000.00
3	2-02	Remove Asphalt Concrete Pavement	SY	960	\$14.00	\$13,440.00	\$11.00	\$10,560.00	\$30.00	\$28,800.00
4	2-03	Unsuitable Foundation Excavation	CY	30	\$130.00	\$3,900.00	\$50.00	\$1,500.00	\$35.00	\$1,050.00
5	5-04	Planing Bituminous Pavement	TON	35	\$125.00	\$4,375.00	\$133.00	\$4,655.00	\$40.00	\$1,400.00
6	4-04	Crushed Surfacing Top Course for Shoulder	SY	110	\$9.00	\$990.00	\$26.00	\$2,860.00	\$20.00	\$2,200.00
7	5-04	HMA Cl. 1/2 In. PG 64-22 for Pavement Repair	TON	210	\$155.00	\$32,550.00	\$168.00	\$35,280.00	\$110.00	\$23,100.00
8	5-04	HMA Cl. 1/2 In. PG 64-22 for Overlay	TON	395	\$98.00	\$38,710.00	\$86.00	\$33,970.00	\$110.00	\$43,450.00
9	8-13	Monument Case and Cover	EA	2	\$750.00	\$1,500.00	\$2,000.00	\$4,000.00	\$750.00	\$1,500.00
10	8-22	Paint Line	LF	4030	\$0.40	\$1,612.00	\$0.50	\$2,015.00	\$1.25	\$5,037.50
						\$117,077.00		\$124,440.00		\$119,537.50

TOTAL CONTRACT AMOUNT BID

**Mathematical error in bid had no effect on bid results*

CITY OF BLACK DIAMOND

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

**PUBLIC WORKS CONTRACT
SMALL WORKS**

- 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 _____ ("Contractor"), a corporation organized under the laws of the State of Washington, whose address is _____. 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, materials and performing work for the City ("the Project"), generally described as:

Jones Lake Road Overlay project, including those additives, if any, specified in the bid award.
- 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:

CONTRACTOR:

CITY OF BLACK DIAMOND
PO Box 599 – 24301 Roberts Drive
Black Diamond, Washington 98010
Contact: Scott Hanis
Phone: (360) 886-5700 ext. 5713
Fax: (360) 886-2592

 Tax ID # _____
 Contact: _____
 Phone: (____) _____
 Fax: (____) _____

- 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

May 20, 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. September 21, 2016 shall be the deadline for 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.
- (3) Documents incorporated by reference. All terms and specifications contained in any Request for Bids 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 most recent WSDOT Standard Specs for Road, Bridge and Municipal Construction; (4) Contractor's proposal; (5) the solicitation for bids including the roadway section design, the project and reconstruction limits
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.

- (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 April 13, 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.A(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 September 21, 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 Unit Price for each of the 10 categories of work as defined in the attached Bid Form/Scope of Work at the bid amounts.

Compensation for services requested by the City beyond the defined Scope of Work shall be by the unit prices according to the bid or by change order.

Rule 171 (WAC 458-20-171) and its related rules apply to this project.

8. Payment

- A. Contractor shall request approval and acceptance of each category of work from the City. Contractor may not bill for the completed work until the City has accepted the completed work.
- B. 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.
- C. 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.
- D. Payments received on account of work performed by a subcontractor are subject to the provisions of RCW 39.04.250.

9. Performance Bond. Contractor shall provide a performance and payment bond to the City prior to commencement of work for 100% of the bid amount 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.

4. Builders Risk [when applicable] insurance covering interests of the City, Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on a all-risk policy form and shall insure against the perils of fire, flood, earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of Contractor. The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

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: _____

APPROVED AS TO FORM:

Office of the City Attorney

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

CITY OF BLACK DIAMOND
PERFORMANCE BOND

Surety Bond #: _____

DATE POSTED: _____

PROJECT COMPLETION DATE: _____

RE: Subdivision/Plat/Name: _____

Owner/Developer/Contractor: _____

Project Address: _____

KNOW ALL PERSONS BY THESE PRESENTS: That we, _____
_____ (hereinafter called the "Principal"), and _____
a corporation organized under the laws of the State of _____, 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
(\$ _____), 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:

WHEREAS, the above named Principal has entered into a certain agreement with the City,
or has been granted approval by the City, for _____
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: (insert complete
description here)

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 within _____ which time period shall begin to run from the earlier of _____ unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, materialmen 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 King 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 _____ day of _____, 201____.

SURETY COMPANY
(Signature must be notarized)

DEVELOPER/OWNER
(Signature must be notarized)

By: _____
Its _____

By _____
Its _____

Print Name: _____

Print Name: _____

Business Name: _____

Business Name: _____

Business Address: _____

Business Address: _____

City/State/Zip Code: _____

City/State/Zip Code: _____

Telephone Number: _____

Telephone Number: _____

CITY OF BLACK DIAMOND

By: _____
Its: _____

Date: _____

The City of Black Diamond
24301 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-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 _____ is the person who appeared before me, and said person acknowledged as the _____ of _____ 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: _____

(print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at: _____
My Commission expires: _____

(For Surety Company)

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 as the _____ of _____ 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: _____

(print or type name)
NOTARY PUBLIC in and for the State of Washington, residing at: _____
My Commission expires: _____

**CITY OF BLACK DIAMOND
MAINTENANCE BOND**

Surety Bond #: _____
Date Posted: _____
Expiration Date: _____

RE: Project Name: _____
Owner/Developer/Contractor: _____
Project Address: _____

KNOW ALL PERSONS BY THESE PRESENTS: That we, _____
(hereinafter called the "Principal"), and _____, a corporation organized
under the laws of the State of _____, 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 _____
dollars (\$ _____), 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:

WHEREAS, the above named Principal has constructed and installed certain improvements
on public property in connection with a project as described above within the City of Black
Diamond; and

WHEREAS, in accordance with BMC _____, as a condition of approval, or as a condition
of a contract with the City, the Principal is required to post a bond for the 24 months following
project completion in order to ensure that the project does not contain defects that require repair and
to cover the cost of repair during that 24-month period; and

WHEREAS, in order to provide security for the obligation of the Principal to repair and/or
replace said improvements against defects in workmanship, materials or installation for a period of
twenty-four (24) months after written and final acceptance of the same and approval by the City;

NOW, THEREFORE, this Maintenance Bond has been secured and is hereby submitted to
the City. It is understood and agreed that this obligation shall continue in effect until released in
writing by the City, but only after the Principal has performed and satisfied the following
conditions:

A. The work or improvements installed by the Principal and subject to the terms and conditions
of this Bond are as follows: (insert complete description of work here)

B. The Principal and Surety agree that the work and improvements installed in the above-referenced project shall remain free from defects in material, workmanship and installation (or, in the case of landscaping, shall survive,) for a period of twenty-four (24) months after written and final acceptance of the same and approval by the City. Maintenance is defined as acts carried out to prevent a decline, lapse or cessation of the state of the project or improvements as accepted by the City during the twenty-four (24) month period after final and written acceptance, and includes, but is not limited to, repair or replacement of defective workmanship, materials or installations.

C. The Principal shall, at its sole cost and expense, carefully replace and/or repair any damage or defects in workmanship, materials or installation to the City-owned real property on which improvements have been installed, and leave the same in as good condition as it was before commencement of the work.

D. The Principal and the Surety agree that in the event any of the improvements or restoration work installed or completed by the Principal as described herein, fail to remain free from defects in materials, workmanship or installation (or in the case of landscaping, fail to survive), for a period of twenty-four (24) months from the date of acceptance of the work by the City, the Principal shall repair and/replace the same within ten (10) days of demand by the City, and if the Principal should fail to do so, then the Surety shall:

1. Within twenty (20) days of demand of the City, make 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 D(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 make repairs or provide maintenance within the time period requested 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 repairing or maintaining the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to repair or maintain such improvements.

- E. Corrections. Any corrections required by the City shall be commenced within ten (10) 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 D above.

- F. 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.

- G. 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 King County Superior Court.

- H. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and until released in writing by the City at the request of the Surety or Principal.

DATED this ____ day of _____, 2016.

SURETY COMPANY
 (Signature must be notarized)

OWNER
 (Signature must be notarized)

By: _____
 Its _____

By _____
 Its _____

Business Name: _____

Business Name: _____

Business Address: _____

Business Address: _____

City/State/Zip Code: _____

City/State/Zip Code: _____

Telephone Number: _____

Telephone Number: _____

CITY OF BLACK DIAMOND

By: _____
Mayor

Date: _____

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

APPROVED AS TO FORM:

Office of the City Attorney

CHECK FOR ATTACHED NOTARY SIGNATURE	
<input type="checkbox"/>	Individual (Form P-1)
<input type="checkbox"/>	Corporation (Form P-2)
<input type="checkbox"/>	Surety Company (Form P-2)

FORM P-2 / NOTARY BLOCK (Use For Partnership or Corporation Only)

(Developer/Owner)

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 as the _____ of _____ 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: _____

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: _____
My Commission expires: _____

(Surety Company)

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 as the _____ of _____ 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: _____

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: _____
My Commission expires: _____

INTRODUCTION TO THE SPECIAL PROVISIONS

(*****)

The work on this project shall be accomplished in accordance with the Standard Specifications for Road, Bridge and Municipal Construction, 2016 edition, as issued by the Washington State Department of Transportation (WSDOT) and the American Public Works Association (APWA), Washington State Chapter (hereafter "Standard Specifications"). The Standard Specifications, as modified or supplemented by the Amendments to the Standard Specifications and these Special Provisions, all of which are made a part of the Contract Documents, shall govern all of the Work.

These Special Provisions are made up of both General Special Provisions (GSPs) from various sources, which may have project-specific fill-ins; and project-specific Special Provisions. Each Provision either supplements, modifies, or replaces the comparable Standard Specification, or is a new Provision. The deletion, amendment, alteration, or addition to any subsection or portion of the Standard Specifications is meant to pertain only to that particular portion of the section, and in no way should it be interpreted that the balance of the section does not apply.

The project-specific Special Provisions are not labeled as such. The GSPs are labeled under the headers of each GSP, with the date of the GSP and its source, as follows:

(May 18, 2007 APWA GSP)

(August 7, 2006 WSDOT GSP)

Also incorporated into the Contract Documents by reference are the following documents, regulations, and/or requirements, which shall supersede any conflicting provisions of the Standard Specifications and are made a part of this contract; provided, however, that if any of the following documents, regulations and/or requirements are less restrictive than Washington State Law, then the Washington State Law shall prevail.

- City of Black Diamond 2009 Engineering Design and Construction Standards
- Manual on Uniform Traffic Control Devices for Streets and Highways, currently adopted edition, with Washington State modifications, if any
- Standard Plans for Road, Bridge, and Municipal Construction, WSDOT/APWA, current edition

DIVISION 1

GENERAL REQUIREMENTS

DESCRIPTION OF WORK

(March 13, 1995)

This Contract provides for .

1-01 DEFINITIONS AND TERMS

1-01.3 Definitions

(January 4, 2016 APWA GSP)

Delete the heading **Completion Dates** and the three paragraphs that follow it, and replace them with the following:

Dates

Bid Opening Date

The date on which the Contracting Agency publicly opens and reads the Bids.

Award Date

The date of the formal decision of the Contracting Agency to accept the lowest responsible and responsive Bidder for the Work.

Contract Execution Date

The date the Contracting Agency officially binds the Agency to the Contract.



City of Black Diamond

JONES LAKE ROAD OVERLAY

WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD PROJECT #2-P-800-(004)-1

CITY OFFICIALS

MAYOR:
CAROL BENSON

COUNCIL MEMBERS:

TAMIE DEADY
ERIKA MORGAN
JANIE EDELMAN
BRIAN WEBER
PAT PEPPER

PROJECT DESCRIPTION

THE PROPOSED PROJECT PRIMARILY CONSISTS OF PATCHING PORTIONS OF JONES LAKE ROAD ALONG WITH SHOULDER WIDENING AND A COMPLETE ASPHALT OVERLAY. THE PROJECT STRETCHES APPROXIMATELY 1,343 LF BETWEEN STATE ROUTE 169 AND RAILROAD AVENUE.

OWNER:

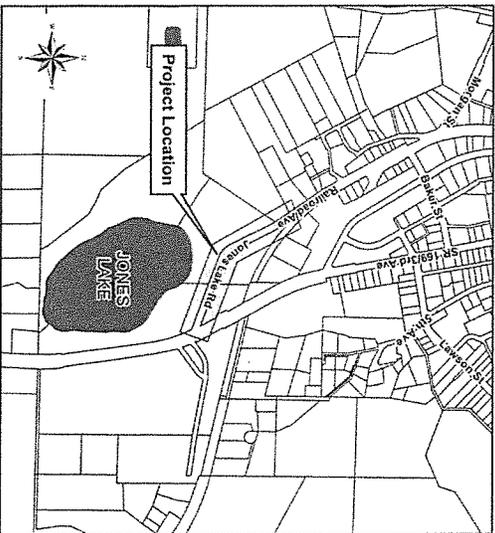
CITY OF BLACK DIAMOND PUBLIC WORKS DEPARTMENT
24301 ROBERTS DRIVE (DELIVERY)
PO BOX 599 (MAILING)
BLACK DIAMOND, WA 98010

PUBLIC WORKS DIRECTOR:

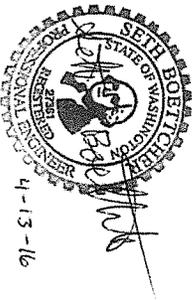
SETH BOETTCHER, PE

PROJECT MANAGER:

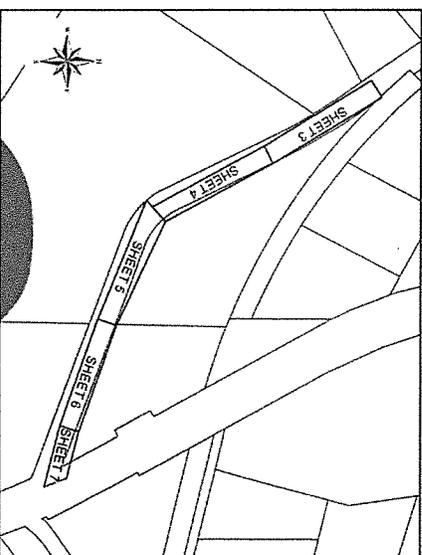
SCOTT HANIS, CAPITAL PROJECT/PROGRAM MANAGER
360-886-5713
shanis@c.blackdiamond.wa.us



VICINITY MAP



SHEET #	DESCRIPTION
1	COVER SHEET
2	PROJECT NOTES
3	ROADWAY PLAN, SECTION 1, STA. 0+00 to 3+15
4	ROADWAY PLAN, SECTION 2, STA. 3+15 to 6+25
5	ROADWAY PLAN, SECTION 3, STA. 6+25 to 9+25
6	ROADWAY PLAN, SECTION 4, STA. 9+25 to 12+05
7	ROADWAY PLAN, SECTION 5, STA. 12+05 to 13+43
8	ROADWAY DETAILS 1
9	ROADWAY DETAILS 2
10	CITY STANDARDS



SHEET INDEX MAP

JONES LAKE ROAD OVERLAY PROJECT

BUDGET DETAILS

As of April 27, 2016

REVENUE		EXPENSES	
ITEM	AMOUNT	ITEM	AMOUNT
TIB Grant	\$ 135,219.00	*Design	\$ 9,843.00
REET Funds	\$ 15,024.90	*Parametrix Quality Control Check	\$ 767.50
		Construction (Bid)	\$ 77,415.20
		Construction Contingency	\$ 52,000.00
		Admin., Inspections & Testing	\$ 9,618.20
		Legal Review & Misc.	\$ 600.00
TOTAL	\$ 150,243.90	TOTAL	\$ 150,243.90

**Design tasks are complete*

The grant on this project will cover 90% of costs with REET funds covering the other 10%. Staff labor costs are also reimbursable in this grant program up to 90%.

With the low bid coming in significantly lower than City estimates, there may be an opportunity to perform extra work on Jones Lake Road (expanded shoulder widening, etc.). The Transportation Improvement Board (TIB) may allow the City to utilize the entirety of the grant funding by authorizing additional overlay work on City streets in the vicinity. This would be dependent on TIB approval.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 16-0000, authorizing a Professional Services Agreement with Parametrix for the design engineering of the Covington Creek Culvert Replacement project	Agenda Date: May 5, 2016	
	AB16-033	
	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): \$108,874.50 for design work	Police – Chief Kiblinger	
Fund Source: King County Flood Reduction Grant of \$145,000	Public Works – Seth Boettcher	X
Timeline: May to December 2016	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution 16-0000; Professional Services Agreement; Scope of Work; CIP Page		
SUMMARY STATEMENT: Public Works staff was successful in obtaining a Flood Reduction Grant from King County in the amount of \$145,000 (Resolution 15-1057) for the design of the Covington Creek Culvert Replacement project. Funds for the grant cover the cost of consultant and staff time. Consultants were invited to submit Statements of Qualifications to the City for the design engineering associated with this project. Based on the submittals and interviews, Parametrix has been selected by City staff as the recommended consultant for this project. Parametrix has the staff and expertise necessary to design and prepare bid materials, as well as acquire necessary permits from state agencies, for this project. Having these design and bid materials will make this a construction-ready project and more appealing for future grant funding. This project will replace the three aging culverts where Lake Sawyer outlets to Covington Creek under 224 th Avenue SE. FISCAL NOTE (Finance Department): This Project was Budgeted in 2015 and will carry over to 2016. The King County Flood Reduction Grant does not have a match requirement for this project. Funding for the design work will be covered in its entirety by the grant.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 16-0000 (Clerk to assign)		

number at adoption), authorizing the Mayor to execute a professional services agreement with Parametrix, Inc. for the design of the Covington Creek Culvert Replacement project.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 5, 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
PARAMETRIX, INC. FOR THE DESIGN OF THE
COVINGTON CREEK CULVERT REPLACEMENT
PROJECT

WHEREAS, the City has planned for capital improvements to the Covington Creek Culvert; and

WHEREAS, Public Works staff was successful in receiving a Flood Reduction Grant from King County to fund the design for the Covington Creek Culvert Replacement project; and

WHEREAS, the City is in need of design services for the Covington Creek Culvert Replacement project; and

WHEREAS, the City went through a competitive selection process to select a consultant to perform the design services for the Covington Creek Culvert Replacement project; and

WHEREAS, Parametrix, Inc. was selected as the most qualified to complete the design work associated with the Covington Creek Culvert Replacement project;

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

Section 1. The Mayor is hereby authorized to execute a professional services agreement with Parametrix, Inc. for the development of design and bid materials for the Covington Creek Culvert Replacement project; substantially in the form attached hereto.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF MAY, 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-_____

and Parametrix, Inc., a Corporation, organized under the laws of the State of Washington, doing business at:

PARAMETRIX, INC. (hereinafter the "CONSULTANT")
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374
Contact: Austin R. Fisher, P.E. Phone: 253-604-6600 Fax: 855-542-6353

for professional services in connection with the following Project:

Covington Creek Culvert Replacement

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 _____, (“Commencement Date”) and shall terminate on _____ unless extended or terminated in writing as provided herein.

4. **Compensation.**

X TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$108,874.50 without written authorization and will be based on billing rates and reimbursable expenses 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 sixty (60) 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.

Revised 2/26/15

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: _____

PARAMETRIX, INC.
Attn: David Roberts, P.E.
Senior Consultant
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374

Phone: 253-604-6600
Fax: 855-542-6353

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

CONSULTANT

By: _____
Carol Benson
Mayor

By: _____

Name: David Roberts, P.E.

Title: Senior Consultant

Date: _____

Date: _____

Attest:

By: _____
Brenda Martinez
City Clerk

APPROVED AS TO FORM:

By: _____
Carol A. Morris
City Attorney

EXHIBIT A SCOPE OF WORK

City of Black Diamond Covington Creek Culvert Replacement

OBJECTIVE

The City of Black Diamond (City) requested that Parametrix prepare contract plans and specifications for replacement of the Covington Creek culverts at Lake Sawyer Road and 224th Avenue SE. The project will also include topographic mapping, Hydraulic Project Approval (HPA) permitting through the Washington Department of Fish and Wildlife (WDFW), hydraulic sizing and analysis of Covington Creek for the culvert replacement, and assistance during bidding and award.

SCHEDULE

This scope of services is anticipated to be completed by December 31, 2016.

PHASE 1 – COVINGTON CREEK CULVERT REPLACEMENT

Task 1 – Project Management and Quality Assurance/Quality Control

Approach

Parametrix will be responsible for continuous tracking and contract administration of this project including preparing monthly invoices, coordination of work efforts with the City's project manager, and coordination with our subconsultants. The Parametrix project manager will maintain routine telephone and email contact with the City's project manager on an as-needed basis with regard to scope, schedule, budget, and invoicing issues.

Independent qualified staff will conduct reviews of all deliverables prior to submittal to the City and/or other regulatory agencies.

Deliverables

- Miscellaneous correspondence to document project management issues.
- Monthly progress reports and invoices.

Task 2 – Mapping

Approach

Parametrix surveyors will establish horizontal and vertical control and map approximately 250 feet of roadway (125 feet in each direction) in the vicinity of the existing culverts.

Surveyors will map improvements such as edge-of-pavement, storm and sanitary structures, fences, and driveways. In addition to improvements, surveyors will map ground features including tops and toes,

edge-of-water, and significant trees (8-inch or larger). Ground shots will be gathered at sufficient intervals to generate 1-foot contours. Location of wetland flags and ordinary high water mark (OHWM), as defined by Parametrix wetland biologists, will be marked.

Once the field data is complete, a survey technician will process the data and incorporate it into the base map. A licensed surveyor will research public records and construct line work to represent parcel lines and right-of-way limits.

Assumptions

- The City will send right-of-entry or notice to property owners, if necessary.
- All property lines will be represented as record lines. A boundary survey will not be performed by Parametrix.
- Parametrix will contract with a utility locating firm for underground utility locates.
- Mapping will be limited to a point 25 feet upstream and downstream of the existing culvert location(s).

Deliverables

- A topographic base map in AutoCAD Civil 3D 2014 format.

Task 3 – Geotechnical Investigation and Report

Approach

Associated Earth Sciences (AES), Inc. will perform a geotechnical assessment in the vicinity of the culvert crossing. The investigation will include the following:

- Advance two borings (one on either side of the existing culvert crossing).
- Perform laboratory testing of on-site soils collected during the site investigation.
- Prepare a draft and final geotechnical report that includes an analysis of AES findings along with recommended design infiltration rates and construction methods and materials.

Deliverables

The deliverables for this task consist of the following:

- Draft Geotechnical Report in electronic (PDF) format.
- Final Geotechnical Report in electronic (PDF) format.

Assumptions

- For a list of project assumptions regarding this task, see the attached proposal from AES, Inc.

Task 4 – Permitting

Parametrix will prepare environmental documentation necessary to obtain permits for the culvert replacement. It is anticipated that environmental permits for this project will be required by the City of Black Diamond, Washington Department of Fish and Wildlife (WDFW), the Corps of Engineers (Corps) and Washington Department of Ecology (Ecology). Parametrix will also prepare documentation to satisfy SEPA (State Environmental Policy Act) with the City of Black Diamond acting as the SEPA lead agency.

Subtask 4.1 City of Black Diamond Critical Areas Ordinance Permitting

Approach

Parametrix will prepare the information necessary to satisfy the City of Black Diamond's Critical Areas Ordinance (CAO) permitting requirements. The CAO requires the submittal of a Critical Area Report (CAR) that documents potential to critical areas regulated by the City. For this project, these critical areas consist primarily of Covington Creek and associated riparian areas. Parametrix will identify and flag wetland boundaries and riparian/stream OHWMs so that potential impacts to critical areas can be assessed and documented in a CAR. Parametrix will complete the following:

- Identify, delineate, and generally describe wetlands, streams, and buffers in the project area. Any wetlands within the study area will be delineated according to the *Corps of Engineers Wetland Delineation Manual* (Environmental Laboratory 1987) and the regional supplement.
- Research available background information on wetlands at the site including the *King County Area Soil Survey* and *National Wetland Inventory* data prior to conducting the field work.
- Locate wetland boundaries and stream OHWM in the field and mark with numbered flagging. All delineated wetlands and streams will be documented on a general hand-drawn sketch map for the use of the project survey team.
- Document soil, vegetation, and hydrology conditions as necessary at representative locations throughout the study area to identify wetlands (data plots). The data plots will be identified in the field with labeled flagging. Both wetland and upland data plots will be sampled and the data will be included in a CAR. Data forms for the regional supplement to the *Corps of Engineers Wetland Delineation Manual* will be prepared.
- Wetlands will be rated in accordance with the Department of Ecology's *2014 Washington State Wetland Rating System for Western Washington*.
- A CAR will be written that includes streams and wetlands delineated as part of this task. The CAR will include a mitigation plan for impacts to streams and wetlands along the trail alignment.
- Photograph wetlands, streams, and buffers in the study area, as necessary, to document existing environmental conditions.

Assumptions

- Two Parametrix wetland biologists will need 1 day to conduct stream delineation at the project site.
- No wetlands are present at the project site. If wetlands are found to be at the project site, additional scope and budget will be necessary for delineation and documentation.
- The City will procure right-of-entry documentation for all non-City-owned land or right-of-way areas prior to field activities.
- It is assumed that the culvert replacement structure will occupy the same or smaller footprint as the existing culverts so only minimal mitigation may be necessary for impacts. Area for mitigation for impacts to Covington Creek and its buffers will be readily available at the site. If mitigation is determined to not be practicable at the site, additional scope and budget will be necessary for determining an adequate mitigation site.
- The CAR and mitigation plan will be used to satisfy City critical area code requirements.

- The scope assumes one review of the draft CAR by the City.

Deliverables

- A sketch map to be provided to the project survey team that locates the wetland boundary flags, OHWM flags, and data plots.
- A draft CAR including a mitigation plan.
- A final CAR including a mitigation plan.

Subtask 4.2 City of Black Diamond Shoreline Master Program Permitting

Approach

The project area is within the Shoreline jurisdiction of Lake Sawyer, which requires a permit for certain activities in accordance with the City's Shoreline Master Program (SMP). The City's SMP allows for exemptions for projects that are considered normal maintenance or repair. Parametrix will prepare documentation to qualify the project as exempt under the SMP as a normal repair activity.

Assumptions

- The City will exempt the project under its SMP as a normal repair activity. If a Shoreline Permit is required, additional scope and budget will be required.

Deliverables

The deliverables for this task consist of the following:

- Draft and final SMP exemption letter.

Subtask 4.3 WDFW Permitting – Hydraulic Project Approval

Approach

Parametrix will complete a Joint Aquatic Resources Permit Application (JARPA) to apply for a HPA permit. Parametrix will provide draft HPA permit documents to the City for review. Parametrix will make any needed revisions to the draft HPA permit documents prior to submission to WDFW.

Assumptions

- The culvert design will be performed in accordance with WDFW's *Design of Road Culverts for Fish Passage* manual.
- Parametrix staff (up to one biologist and one engineer) will meet with WDFW staff in the field prior to submission of the HPA application to discuss the anticipated culvert replacement structure size and to receive WDFW input.
- Existing information will be used to document fish presence and habitat use in the project area. No field surveys for fish will be required.

Deliverables

The deliverables for this task consist of the following:

- Draft and final JARPA.

Subtask 4.4 Federal Permitting – Nationwide Permit

Approach

Parametrix will prepare permit application documentation to obtain a Nationwide Permit for work occurring below the OHWM to satisfy requirements of Sections 404 and 401 of the Clean Water Act, as administered by the Corps and Ecology, respectively. Due to the type and magnitude of work anticipated, the project will be covered by a Nationwide Permit 3, Maintenance. Parametrix will submit a JARPA to fulfill the Pre-Construction Notification requirement and will request a jurisdictional determination. Parametrix staff (up to one biologist and one engineer) will meet with the Corps on-site to discuss the project and the Corps' potential jurisdiction.

Assumptions

- The Corps will not assert jurisdiction over the project. Therefore, Corps-related ancillary studies/documentation, such as a Biological Assessment or a Cultural Resources Survey, will not be required.
- If the Corps asserts jurisdiction and requires supporting studies and/or documentation, additional scope and budget will be required.

Deliverables

The deliverables for this task consist of the following:

- Draft and final JARPA.

Task 5 – Preliminary Design

Parametrix will prepare Preliminary Plans and Opinion of Cost for review by the City. The plans will be completed to a level of detail necessary to obtain an HPA permit (and a Corps permit, if necessary) and the design will include a hydraulic analysis for sizing of the new culvert.

Approach

The Preliminary Plans are anticipated to include the following sheets:

Cover and Legend	2 sheets
Demo and TESC Plans	1 sheet
Plan and Profile	1 sheet
<u>Culvert Plan/Elevation</u>	<u>2 sheets</u>
Total:	6 sheets

Parametrix will prepare an Opinion of Cost for review by the City.

SCOPE OF WORK (continued)

The City will work with Parametrix to obtain historical flow data for the outlet from Lake Sawyer to Covington Creek to support the design of a large fish-passable culvert (or land use information for use in estimating flows). Parametrix will use this data to design the culvert using the WDFW Stream Simulation design method. A hydraulic analysis will be performed to size the proposed culvert for high-flow events. Parametrix work activities shall consist of the following:

- One site visit that will include stream survey of long profile, cross sections, and pebble count.
- Survey longitudinal stream channel (thalweg) to a point no further than 25 feet upstream (or to headwaters) and 25 feet downstream of the 224th Avenue stream crossing.
- Maximum of one stream cross section upstream and one cross section downstream of the culvert outside the influence of the culvert or other artificial or unique channel conditions.
- Maximum of three pebble counts (Wolman 1954) in an unmodified reach representative of prevailing stream conditions.
- Hydraulic analysis using Hydrologic Engineering Centers River Analysis System (HEC-RAS) to evaluate the proposed culvert. Geometric data for the model will be based on the topographic survey and the proposed culvert design. Flow data will be based on U.S. Geological Survey (USGS) regression analysis (USGS 2001).
- A scour analysis will be performed for the proposed culvert.

Parametrix will prepare a cover letter summarizing the stream survey and hydrologic, hydraulic, and scour analyses. The letter will state the results of the analysis and recommended dimensions of the culvert or bridge. It will also document the assumptions for the stream design.

Assumptions

- Comments received from the City following review of the preliminary design will be incorporated into the final design.
- Technical memorandum (hydraulic analysis) will be a maximum of five pages of text and will include appendices for figures and support calculations, as necessary.
- The work included in the final design task assumes that the work required by WDFW will be limited to the area currently occupied by the existing culverts that are being replaced. Additional restoration requirements beyond the limits of the existing culverts may require additional funds to complete.
- No structural calculations are included in this scope of services. It is assumed the project will use a precast three-sided box culvert or similar culvert that is typically designed by the manufacturer.

Deliverables

- Cover letter and hydraulic culvert sizing calculations in PDF format.
- Preliminary plans in PDF format.
- Preliminary opinion of cost in MS Excel format.

Task 6 – Final Design

Parametrix will complete the design and prepare plans, contract specifications, and Opinion of Cost for the project. The plans and contract specifications will be prepared in accordance with the City's legal boilerplate and 2016 WSDOT *Standard Specifications for Road, Bridge, and Municipal Construction*.

SCOPE OF WORK (continued)

Approach

90% Plans are anticipated to include the following sheets:

Cover and Legend	2 sheets
Demo and TESC Plans	2 sheet
Plan and Profile	1 sheet
Culvert Plan/Elevation	2 sheets
Stream Restoration (beneath new culvert)	2 sheets
<u>Details</u>	<u>1 sheets</u>
Total:	10 sheets

Parametrix will refine the Opinion of Cost for consistency with the final plans.

Parametrix will incorporate the City's legal boilerplate and Public Works contract into the Contract Provisions, including a Schedule of Prices based on the Bid Item List and special technical provisions as appropriate for the project.

Assumptions

- The City will deliver the most recent legal boilerplate and Public Works contract to Parametrix for incorporation into the contract specifications.
- Contract specifications including technical special provisions shall be based on the WSDOT Standard Specifications.
- The work included in the final design task assumes that the work required by WDFW will be limited to the area currently occupied by the existing culverts that are being replaced. Additional restoration requirements beyond the limits of the existing culverts may require additional funds to complete.
- No structural calculations are included in this scope of services. It is assumed that the project will use a precast three-sided box culvert or similar culvert that is typically designed by the manufacturer.
- No landscape or wetland mitigation plans are included in this scope of services.

Deliverables

- Final plans in PDF format.
- Final contract documents in PDF format.
- Final Opinion of Cost in MS Excel format.

END SCOPE OF SERVICES

Capital Plan 2015 - 2020

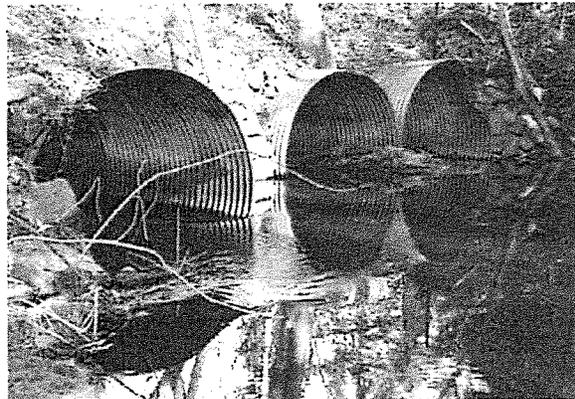
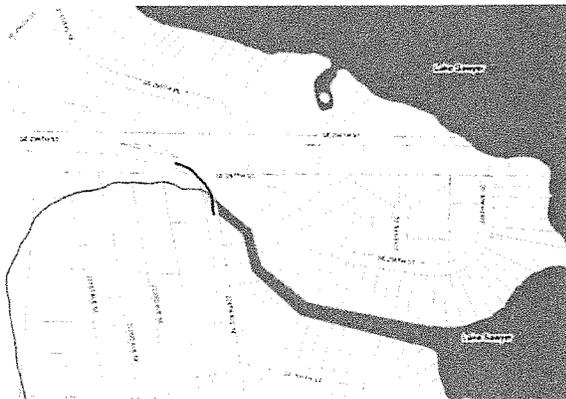
Project for the	Stormwater Department	#	D1
PROJECT TITLE	Cov. Creek Culvert; Safety and Salmon Imp.		13,14

DESCRIPTION Rehabilitate the existing culverts, add a concrete head wall and guard rail. The summer 2012 inspections found the culverts to be structurally sound, but with serious corrosion and pitting in the lower third of the culverts and a few areas where corrosion has opened holes in the culvert. The culverts could be lined to preserve their structural integrity at about a third of the cost of replacement.

BACKGROUND The three culverts divide the small summer flow leaving only a small amount of water for fish passage. The existing corrugated metal culverts are showing signs of corrosion. The guard rails will protect the environment from errant stray vehicles.

COMMENTS Grant funding may be available for this project from conservation funds, traffic safety funding and King County Flood District Opportunity Funds.

Capital Plan 2015 - 2020						
Total \$ Requested 2015 - 2020	2015	2016	2017	2018	2019	2020
Design Engineering		65,000				
Construction	240,000			240,000		
Management / Administration	15,000	5,000	10,000			
TOTAL COSTS	320,000	-	70,000	250,000	-	-
Total \$ Requested 2015 - 2020	2015	2016	2017	2018	2019	2020
WRIA 9 Salmon mitigation	255,000	55,000	200,000			
traffic safety (TIB)	50,000		50,000			
Opportunity funding (flood)	15,000	15,000				
TOTAL SOURCES	320,000	-	70,000	250,000	-	-



CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Ordinance No. 16-000, updating the City's Stormwater Code for new development to meet Department of Ecology Standards for Western Washington	Agenda Date: May 5, 2016 AB16-034	
	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	
Fund Source: --	Public Works – Seth Boettcher	
Timeline:	Court – Stephanie Metcalf	
	Councilmember Pepper	X
Agenda Placement: <input type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Proposed Stormwater Ordinance		
SUMMARY STATEMENT: Councilmembers Pepper and Morgan asked for this proposed ordinance to be placed on the May 5 th agenda for first reading.		
FISCAL NOTE (Finance Department):		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
May 5, 2016		

Ordinance 16-

AN ORDINANCE UPDATING THE CITY'S
STORMWATER CODE FOR NEW DEVELOPMENT
TO MEET DEPARTMENT OF ECOLOGY
STANDARDS FOR WESTERN WASHINGTON

WHEREAS, in 2005, the Black Diamond City Council adopted the Washington State Department of Ecology's 2005 Stormwater Manual for Western Washington, except for Chapter 2 of Volume 1, as the stormwater standards for the City of Black Diamond; and

WHEREAS, The Department of Ecology's current stormwater manual is the 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (The 2014 SWMMWW), which incorporates current best management practices and best available science; and

WHEREAS, Black Diamond is a National Pollution Discharge Elimination System (NPDES) Phase II community, and as such is required to adopt stormwater standards equivalent or more stringent than the 2005 Ecology Manual by August 19, 2009, and our current omission of Volume 1, Chapter 2 makes our compliance questionable; and

WHEREAS, Black Diamond is a National Pollution Discharge Elimination System (NPDES) Phase II community, and as such is required to adopt stormwater standards equivalent or more stringent than the 2012 Ecology Manual by Dec 31, 2016 and certain requirements of the manual prior to then; and

WHEREAS, the City Of Black Diamond Stormwater Management Program Plan (SWMP Plan) 2015 update states:

"In order to comply with new requirements regarding site planning requirements; Best Management Practice (BMP) selection criteria; BMP design criteria; BMP infeasibility criteria; Low Impact Development (LID) competing needs criteria; and BMP limitations, the City should adopt the DOE 2012 SWMMWW. Adoption and implementation of the DOE 2012 SWMMWW will meet the requirements of the Permit." (1)

(1) - p. 15, http://www.ci.blackdiamond.wa.us/Depts/PubWorks/Docs/2014/swmp%202015_final_112014.pdf

Additionally, the Council incorporates the following findings from previous inputs to the city:

1. Urban development causes significant changes in patterns of stormwater flow from land into receiving waters. Increased surface runoff flows cause stream channel changes that destroy habitat for fish. Water quality can be harmed when runoff carries pollutants such as eroded soil, oil, metals or pesticides into streams, wetlands, lakes, and marine waters or into ground water. Managing stormwater runoff helps to reduce these significant pollution problems that make waterways unhealthy for people and fish.

2. The City has many large undeveloped and underdeveloped parcels that, if developed before the new stormwater management standards are in place, could result in stormwater management plans and facilities that do not meet current best management practices and are not based on best available science. Such inadequate plans and facilities could have a detrimental impact to water quality, fish habitat, and flood control for many years to come.

3. Immediate adoption of the 2012 Ecology Manual as amended in 2014, is by necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of surface and stormwater, erosion control, and flooding.

4. This ordinance is necessary in order to minimize water quality degradation; prevent flood damage, siltation and habitat destruction in the City's creeks, streams and other water bodies; to protect property owners adjacent to developing land from increased runoff rates which could cause stream erosion and damage to public and private property; to promote sound development and redevelopment policies which respect and preserve the City's watercourses and aquatic habitat; to promote low impact development strategies that reduces impervious surface and stormwater runoff; to ensure the safety of City roads and rights-of-way; prevent water quality degradation and ground water recharge through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance programs in order to promote the effectiveness of the requirements contained in this chapter.

Therefore, the **Proposed update to the Black Diamond Municipal Code is as follows:**
(shown with strikethru of old language, and underline of new language)

14.04.020 Adoption of manual—Applicability.

A. Stormwater Management Manual Adopted. The 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 (The 2014 SWMMWW) ~~The February 2005 Edition of the Department of Ecology's Stormwater Management Manual for Western Washington ("SWMMWW"), as modified and amended in subsection B of this section,~~ is hereby adopted by reference (the "Stormwater Manual"). Stormwater management measures shall be designed, constructed and maintained in accordance with the standards and specifications as set forth in the Stormwater Manual.

~~B. Amendments to SWMMWW. Volume 1, Chapter 2 of the SWMMWW, titled "Minimum Requirements for New Development and Redevelopment" is not adopted. Appendix 1 of the NPDES Phase II Municipal Stormwater Permit, titled "Minimum Technical Requirements for New Development and Redevelopment" is hereby adopted by reference, replacing Volume 1, Chapter 2 of the SWMMWW. Any conflict between Appendix 1 of the NPDES permit and the remainder of the SWMMWW shall be resolved in favor of Appendix 1.~~

~~C. B.~~ All development and redevelopment within the city shall comply with the provisions of this chapter and the Stormwater Manual. Where there is a conflict between the manual and any other provisions of the Black Diamond Municipal Code, the more restrictive requirement shall apply.