



CITY OF BLACK DIAMOND
September 1, 2016 Regular Business Meeting Agenda - REVISED
25510 Lawson St., Black Diamond, Washington

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

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Proclamation – National Recovery Month

CONSENT AGENDA:

- 1) **Claim Checks** – September 1, 2016 - No. 43850 through No. 43896 and EFTs in the amount of \$91,400.68
- 2) **Minutes** – Council Meeting of August 18, 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:

Council Meeting Minutes of July 21, 2016

NEW BUSINESS:

- | | |
|-----------------------------------------------------------------------------------------------------------|----------------|
| 3) AB16-047 – Resolution Accepting the Jones Lake Road Overlay Project | Mr. Boettcher |
| 4) AB16-048 – Resolution Approving Special Event Permit for Tough Mudder | Mr. Williamson |
| 5) AB16-049 – Resolution Authorizing an Agreement with Parametrix, Inc. - Surveying Svc. - MDRT | Mr. Williamson |
| 6) AB16-050 – Resolution Authorizing an Agreement with Parametrix, Inc. - Traffic Eng. Svc. - MDRT | Mr. Williamson |
| 7) AB16-051 – Resolution Authorizing an Agreement with RH2 - Civil – MDRT | Mr. Williamson |
| 8) AB16-052 – Resolution Authorizing an Agreement with Perteet –Environment- MDRT | Mr. Williamson |
| 9) AB16-053 – Resolution Authorizing an Agreement with HWA Geosciences – MDRT | Mr. Williamson |
| 10) AB16-054 – Resolution Authorizing an Agreement with DKS | Mr. Williamson |

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORT:

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

ATTORNEY REPORT:

PUBLIC COMMENTS:

ADJOURNMENT:

Office of the Mayor
Black Diamond, Washington



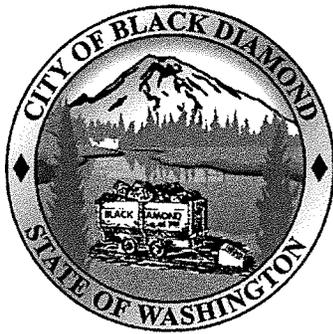
PROCLAMATION

- WHEREAS,** behavioral health is an essential part of health and one's overall wellness; and
- WHEREAS,** prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and
- WHEREAS,** preventing and overcoming mental and/or substance use disorders is essential to achieving healthy lifestyle, both physically and emotionally; and
- WHEREAS,** we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem and guide those in need to appropriate treatment and recovery support services; and
- WHEREAS,** an estimated 400,000 people in King County are affected by these conditions; and
- WHEREAS,** to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), the King County Behavioral and Recovery Division, and the City of Black Diamond invite all residents of Black Diamond to participate in National Recovery Month (Recovery Month);

NOW, THEREFORE, I, Carol Benson, Mayor of the City of Black Diamond, on behalf of the Black Diamond City Council, call upon Black Diamond residents to observe the month of September with appropriate programs, activities, and ceremonies supporting this year's Recovery Month and do hereby proclaim in the City of Black Diamond, the month of September 2016 as a month to recognize

NATIONAL RECOVERY MONTH

Carol Benson, Mayor



CERTIFICATION

Date: September 2, 2016

Check No.'s/EFT	Batch Name	Check/EFT Date	Amount
EFT's	August EFT 3rd Batch	8/4, 8/10, 8/17, 8/20, 8/22, 8/25	\$ 7,807.48
43850-43852	August Pre Council 3 rd Batch	8/19/16	\$ 330.00
43853-43892	August 3rd Batch	9/2/16	\$ 74,662.10
43893-43896	September 1 st Council	9/2/16	\$ 8,601.10
		TOTAL	\$91,400.68

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

MAY MILLER, FINANCE DIRECTOR / CAROL BENSON, MAYOR

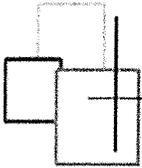
8-24-2016

DATE

DATE

COUNCILMEMBERS

DATE



Register

Fiscal: 2016

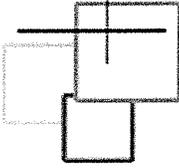
Deposit Period: 2016 - September, 2016 - August

Check Period: 2016 - September - 1st Council, 2016 - August - August 3rd Batch, 2016 - August - Pre-Council Aug 3rd Batch, 2016 - August - Pre-Council Aug EFT 3rd Batch

Number	Name	Print Date	Amount
Columbia Bank			
Check			
<u>43850</u>	Arthur J Gallagher Risk Management Services, Inc	8/19/2016	\$75.00
<u>43851</u>	Nataional Notary Association	8/19/2016	\$225.00
<u>43852</u>	Notary Public Program	8/19/2016	\$30.00
<u>43853</u>	ADT Security Services (PA)	9/2/2016	\$160.17
<u>43854</u>	Agrishop Inc.	9/2/2016	\$28.23
<u>43855</u>	Alpine Products Inc.	9/2/2016	\$62.14
<u>43856</u>	Art Gamblin Motors	9/2/2016	\$3,578.62
<u>43857</u>	AWC	9/2/2016	\$115.00
<u>43858</u>	Beatriz Jordan	9/2/2016	\$139.96
<u>43859</u>	BHC Consultants, LLC	9/2/2016	\$799.20
<u>43860</u>	Bill's Locksmith Service Inc.	9/2/2016	\$42.61
<u>43861</u>	Black Diamond Auto Parts	9/2/2016	\$127.90
<u>43862</u>	Brat Wear, Inc	9/2/2016	\$500.32
<u>43863</u>	CenturyLink (WA)	9/2/2016	\$213.41
<u>43864</u>	CHS/Cenex	9/2/2016	\$1,882.81
<u>43865</u>	City of Enumclaw	9/2/2016	\$480.00
<u>43866</u>	City of Issaquah	9/2/2016	\$582.00
<u>43867</u>	Comcast (34227)	9/2/2016	\$217.75
<u>43868</u>	Enumclaw Chrysler Jeep	9/2/2016	\$3,623.80
<u>43869</u>	Enumclaw School Dist.#216	9/2/2016	\$9,127.00
<u>43870</u>	Firestone Complete Auto Care	9/2/2016	\$708.48
<u>43871</u>	Greater Maple Valley-Black Diamond Chamber of Commerce	9/2/2016	\$20.00
<u>43872</u>	Home Depot Credit Service	9/2/2016	\$427.04
<u>43873</u>	Honey Bucket/Northwest Cascade Inc.	9/2/2016	\$87.00
<u>43874</u>	Johnsons Home & Garden	9/2/2016	\$65.39
<u>43875</u>	Kevin Kooyman	9/2/2016	\$1,000.00
<u>43876</u>	King County Finance I-Net	9/2/2016	\$375.00
<u>43877</u>	King County Finance/ Mental Health	9/2/2016	\$269.36
<u>43878</u>	Lynn Robbins	9/2/2016	\$136.00
<u>43879</u>	Orkin Commercial Services	9/2/2016	\$119.29
<u>43880</u>	Parametrix, Inc.	9/2/2016	\$23,636.50
<u>43881</u>	Puget Sound Energy	9/2/2016	\$207.80
<u>43882</u>	South Correctional Entity	9/2/2016	\$1,413.00
<u>43883</u>	Summit Law Group	9/2/2016	\$6,260.80
<u>43884</u>	Valley Automotive Repair & Electric	9/2/2016	\$1,880.16
<u>43885</u>	Valley Communications	9/2/2016	\$12,825.08
<u>43886</u>	VenTek International	9/2/2016	\$90.00

<u>43887</u>	Verizon Wireless	9/2/2016	\$1,197.51
<u>43888</u>	WABO	9/2/2016	\$879.52
<u>43889</u>	Warm Homes, Inc	9/2/2016	\$1,000.00
<u>43890</u>	Washington State Patrol	9/2/2016	\$88.50
<u>43891</u>	Water Management Laboratories, Inc.	9/2/2016	\$21.00
<u>43892</u>	Yakima County Dept. of Corrections	9/2/2016	\$273.75
<u>43893</u>	Kara Murphy Richards	9/2/2016	\$2,000.00
<u>43894</u>	Melanie Thomas Dane	9/2/2016	\$2,000.00
<u>43895</u>	Sorci Family LLC	9/2/2016	\$3,577.00
<u>43896</u>	State Auditor Office	9/2/2016	\$1,024.10
<u>EFT Payment 8/04/20161</u>	Dept of Licensing-Firearms Online	8/4/2016	\$36.00
<u>EFT Payment 8/10/2016 1</u>	Dept of Licensing-Firearms Online	8/10/2016	\$72.00
<u>EFT Payment 8/17/20161</u>	U.S. Postal Service (CMRS-FP)	8/17/2016	\$196.00
<u>EFT Payment 8/22/20161</u>	U.S. Postal Service (Black Diamond)	8/22/2016	\$215.00
<u>EFT Payment 8/22/20162</u>	U.S. Postal Service (CMRS-FP)	8/22/2016	\$200.00
<u>EFT Payment 8/23/2016 1</u>	US Bank Equipment Finance	8/22/2016	\$2,094.15
<u>EFT Payment 8/25/20161</u>	Washington State Department of Revenue	8/25/2016	\$4,994.33
		Total	\$91,400.68

Voucher Directory



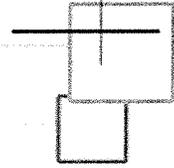
Vendor	Number	Reference	Account Number	Description	Amount
Dept of Licensing-Firearms Online	EFT Payment 8/04/20161				
	080416 DOLFO			2016 - August - Pre-Council Aug EFT 3rd Batch	
			633-000-000-586-11-00-00	DOL- Firearms EFT Payments	\$36.00
			BD0000105-106		
	Total 080416 DOLFO				\$36.00
	Total EFT Payment 8/04/20161				\$36.00
	EFT Payment 8/10/2016 1				\$36.00
	081016 DOLFO			2016 - August - Pre-Council Aug EFT 3rd Batch	
			633-000-000-586-11-00-00	DOL- Firearms EFT Payments	\$72.00
			BD0000107-1111		
	Total 081016 DOLFO				\$72.00
	Total EFT Payment 8/10/2016 1				\$72.00
Total Dept of Licensing-Firearms Online					\$72.00
U.S. Postal Service (Black Diamond)	EFT Payment 8/22/20161				\$108.00
	063016			2016 - August - Pre-Council Aug EFT 3rd Batch	
				Annual Bulk Mail Permit	
			001-000-180-518-90-42-00	Postage	\$215.00
	Total 063016				\$215.00
Total EFT Payment 8/22/20161					\$215.00
Total U.S. Postal Service (Black Diamond)					\$215.00
U.S. Postal Service (CMRS-FP)	EFT Payment 8/17/20161				\$215.00
	081716 USPS CRM			2016 - August - Pre-Council Aug EFT 3rd Batch	
			001-000-180-518-90-42-00	Postage	\$196.00
	Total 081716 USPS CRM				\$196.00
Total EFT Payment 8/17/20161					\$196.00
EFT Payment 8/22/20162					\$196.00
082016 USPS CRMS				2016 - August - Pre-Council Aug EFT 3rd Batch	
				August 17 to August 19, 2016	
			001-000-180-518-90-42-00	Postage	\$200.00
	Total 082016 USPS CRMS				\$200.00
Total EFT Payment 8/22/20162					\$200.00
Total U.S. Postal Service (CMRS-FP)					\$396.00

Vendor	Number	Reference	Account Number	Description	Amount
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US Bank Equipment Finance					
EFT Payment 8/23/2016 1					
	082216	USB1		2016 - August - Pre-Council Aug EFT 3rd Batch	
	001-000-210-521-10-45-00			Lease Payments - US Bank/Copier	\$161.93
	001-000-248-594-18-64-00			MDRT-Computer/Printer	\$161.93
	001-000-254-518-20-45-04			Facilities Copier Maint Lease	\$921.70
	Total 082216 USB1				\$1,245.56
	082216	USB2			
	001-000-210-521-10-45-00			Lease Payments - US Bank/Copier	\$106.07
	001-000-248-594-18-64-00			MDRT-Computer/Printer	\$106.07
	001-000-254-518-20-45-04			Facilities Copier Maint Lease	\$636.45
	Total 082216 USB2				\$848.59
	Total EFT Payment 8/23/2016 1				\$2,094.15
Total US Bank Equipment Finance					
Washington State Department of Revenue					
	082516	DOR		2016 - August - Pre-Council Aug EFT 3rd Batch	

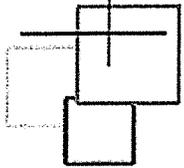
	July			Operating Supplies	\$12.38
	001-000-210-521-10-31-00			Printing	\$15.05
	001-000-210-521-10-49-03			Cemetery Sales Excise Tax	\$22.50
	001-000-280-536-20-54-00			State of WA Utility Excise Tax	\$3,461.01
	401-000-000-534-80-44-01			State of WA Utility Excise Tax	\$44.03
	401-000-000-534-80-44-01			State of WA Excise Tax	\$1,002.89
	407-000-000-535-80-44-01			State of WA Excise Tax	\$2.07
	410-000-000-531-10-44-01			WA St Excise Taxes	\$434.40
	Total 082516 DOR				\$4,994.33
	Total EFT Payment 8/25/20161				\$4,994.33
Total Washington State Department of Revenue					
				Vendor Count	5
Grand Total					

Voucher Directory



Vendor	Number	Reference	Account Number	Description	Amount
Arthur J Gallagher Risk Management Services, Inc	43850			2016 - August - Pre-Council Aug 3rd Batch	
	1867661		001-000-137-514-21-49-05	Notary Costs 2016-2019	\$75.00
				Notary Bond-City Clerk	
	Total 1867661				\$75.00
Total Arthur J Gallagher Risk Management Services, Inc	43851			2016 - August - Pre-Council Aug 3rd Batch	
Nataional Notary Association	43851				
	865758		001-000-137-514-21-49-05	Notary Costs 2016-2019	\$225.00
				Notary Bond Supplies-City Clerk	
	Total 865758				\$225.00
Total Nataional Notary Association	43852			2016 - August - Pre-Council Aug 3rd Batch	
Notary Public Program	43852				
	NPP DOL		001-000-137-514-21-49-05	Notary Costs 2016-2019	\$30.00
				Notary Application Fee for Appointment-City Clerk	
	Total NPP DOL				\$30.00
Total Notary Public Program					\$30.00
Grand Total				Vendor Count	\$330.00
				3	

Voucher Directory



Vendor Number	Reference	Account Number	Description	Amount
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ADT Security Services (PA)
43853

2016 - August - August 3rd Batch

277524646			September 1 to November 30, 2016 Services	
			001-000-270-576-80-49-02 Security	\$3.20
			001-000-280-536-20-49-02 Security	\$6.41
			101-000-000-542-90-49-03 Security	\$35.24
			401-000-000-534-80-49-07 Security	\$38.44
			407-000-000-535-80-49-05 Security	\$38.44
			410-000-000-531-10-49-04 Security	\$38.44
			Total 277524646	\$160.17

Total 43853
Total ADT Security Services (PA)
Agrishop Inc.

43854

44678

2016 - August - August 3rd Batch

			July Purchase	
			001-000-270-576-80-35-00 Small Tools & Safety Equip	\$0.56
			001-000-280-536-20-35-00 Small Tools & Safety Equip	\$2.26
			401-000-000-534-80-35-00 Small Tools & Safety Equip	\$4.23
			407-000-000-535-80-35-00 Small Tools & Safety Equipment	\$7.06
			407-000-000-535-80-35-00 Small Tools & Safety Equipment	\$7.06
			410-000-000-531-10-35-00 Small Tools and Safety Equipment	\$7.06
			Total 44678	\$28.23

Total 43854
Total Agrishop Inc.
Alpine Products Inc.

43855

160521

2016 - August - August 3rd Batch

			August Purchase	
			320-000-002-595-64-63-04 Street Signs	\$62.14
			Streets-Street Signs, Lawson St & 5th Ave	\$62.14
			Total 160521	\$62.14

Total 43855
Total Alpine Products Inc.

Vendor Number	Reference	Account Number	Description	Amount
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Art Gamblin Motors	43856		2016 - August - August 3rd Batch	
	241220	June Service		
		001-000-210-521-10-48-01	Vehicle Maintenance & Repair	\$3,578.62
			Police-Repairs and Maintenance of Vehicle	\$3,578.62
				\$3,578.62
Total Art Gamblin Motors	43857		2016 - August - August 3rd Batch	
	45650	001-000-130-513-10-49-01	Training & Workshop & Dues	\$45.00
			2016 Fall Mayor's Exchange Registration-Mayor Benson	\$45.00
Total AWC	43858			
	45652	001-000-110-511-60-49-00	Training and Workshops	\$35.00
			2016 AWC Statewide Candidate Forum-Council Member Edelmam	\$35.00
Total AWC	43859			
	45698	001-000-110-511-60-49-00	Training and Workshops	\$35.00
			2016 AWC Statewide Candidate Forum-Council Member Deady	\$35.00
Total AWC	43858			
	1240 BJ		2016 - August - August 3rd Batch	
		August Services		
		001-000-120-512-50-41-04	Court Interpreter	\$139.96
Total Beatriz Jordan	43859			
	7992		2016 - August - August 3rd Batch	
		June 25 to July 22, 2016 Services		
		001-000-240-558-51-41-03	Bldg Official Costs	\$799.20
Total BHC Consultants, LLC	43859			
	7992			\$799.20

Bill's Locksmith Service Inc.
43860

2016 - August - August 3rd Batch

113209	001-000-181-518-30-48-00	Facility-Vehicle Mtc. & Repair Facilities-Keys and Code for Sable	\$42.61
	Total 113209		\$42.61

Total 43860
Total Bill's Locksmith Service Inc.
Black Diamond Auto Parts
43861

2016 - August - August 3rd Batch

412996	July Purchases		
	001-000-246-558-70-48-00	Vehicle Repair & Maintenance	\$32.53
	MDRT-Vehicle Cleaning Supplies		
	001-000-270-576-80-48-03	Vehicle Mtc. & Repair	\$1.17
	Oil Filter, Seal Foam		
	001-000-280-536-20-48-03	Vehicle Maintenance & Repair	\$0.59
	Oil Filter, Seal Foam		
	101-000-000-543-33-48-03	Street Share-Vehicle & Eq Mtc Costs	\$6.44
	Oil Filter, Seal Foam		
	401-000-000-534-80-48-03	Vehicle Maintenance	\$7.03
	Oil Filter, Seal Foam		
	407-000-000-535-80-48-04	Vehicle Maintenance	\$7.03
	Oil Filter, Seal Foam		
	410-000-000-531-10-48-03	Stormwater Maintenance & Repair	\$7.03
	Oil Filter, Seal Foam		
	Total 412996		\$61.82

413133

July Purchases

	001-000-210-521-10-48-01	Vehicle Maintenance & Repair	\$44.92
	Police Vehicle Supplies		
	001-000-270-576-80-48-03	Vehicle Mtc. & Repair	\$0.85
	PW Vehicle Supplies		
	001-000-280-536-20-48-03	Vehicle Maintenance & Repair	\$0.42
	PW Vehicle Supplies		
	101-000-000-543-33-48-03	Street Share-Vehicle & Eq Mtc Costs	\$4.65
	PW Vehicle Supplies		
	401-000-000-534-80-48-03	Vehicle Maintenance	\$5.08
	PW Vehicle Supplies		
	407-000-000-535-80-48-04	Vehicle Maintenance	\$5.08
	PW Vehicle Supplies		
	410-000-000-531-10-48-04	Vehicle Maintenance & Repair	\$5.08

PW Vehicle Supplies

Total 413133
 Total 43861
 Total Black Diamond Auto Parts \$66.08
 Brat Wear, Inc 43862 \$127.90
 \$127.90

19298
 Total 19298
 2016 - August - August 3rd Batch
 001-000-210-521-10-31-04 Uniforms \$500.32
 Police-Uniforms, Brian Lynch \$500.32
 \$500.32

Total 43862
 Total Brat Wear, Inc
 CenturyLink (WA) 43863 \$500.32
 \$500.32

082216 CL
 Total 082216 CL
 2016 - August - August 3rd Batch
 001-000-214-521-20-42-00 Police Telephone/DSL/Air Cards \$182.49
 Police Main Line
 001-000-254-518-20-42-00 Facilities-Communication \$30.92
 City Hall Main Line

Total 43863
 Total CenturyLink (WA)
 CHS/Cenex 43864 \$213.41
 \$213.41
 \$213.41

073116 CHS
 Total 073116 CHS
 2016 - August - August 3rd Batch
 July Police Fuel
 001-000-210-521-10-32-00 Fuel \$1,882.81
 \$1,882.81
 \$1,882.81
 \$1,882.81

Total 43864
 Total CHS/Cenex
 City of Enumclaw 43865 \$480.00
 \$480.00
 \$480.00
 \$480.00

04794
 Total 04794
 2016 - August - August 3rd Batch
 July Jail Service
 001-000-211-523-60-49-00 Jail Costs \$480.00
 8 Jail Beds @ 60.00 Per Day \$480.00
 \$480.00

Total 43865
 Total City of Enumclaw

City of Issaquah	43866				
		04-50008230	2016 - August - August 3rd Batch		
			June Jail Services		
		001-000-211-523-60-49-00	Jail Costs		\$582.00
			6 Jail Beds @ 97.00 Per Day		\$582.00
					\$582.00
Total City of Issaquah	43866				
Comcast (34227)					
		8498 34 014 0122286 81816	2016 - August - August 3rd Batch		
		001-000-120-512-50-42-00	Telephone/DSL		\$217.75
			Court		\$217.75
					\$217.75
Total Comcast (34227)	43868				
Enumclaw Chrysler Jeep					
		6054033/1	2016 - August - August 3rd Batch		
			June Services		
		001-000-210-521-10-48-01	Vehicle Maintenance & Repair		\$752.25
			Police-Recall Warranty Work and Fuel Pump Repairs		\$752.25
			June Services		
		510-000-200-594-48-64-09	4-Wheel Drive Truck		\$147.92
			PW Truck-Electrical Repairs for Trailer Brakes		\$147.92
			June Services		
		001-000-210-521-10-48-01	Vehicle Maintenance & Repair		\$1,090.64
			Police-Oil Change, Brakes, Front Suspension Repairs		\$1,090.64
			July Services		
		001-000-210-521-10-48-01	Vehicle Maintenance & Repair		\$1,632.99
			Police-Replace Rear Brakes, Water Pump		\$1,632.99
					\$3,623.80
					\$3,623.80
Total Enumclaw Chrysler Jeep					

Enumclaw School Dist.#216				
43869	BLD16-0045		2016 - August - August 3rd Batch	
		Refund of Permit, Plan Check and Technology Fees		\$3,531.00
		001-000-240-322-10-00-00	Building Permits	\$165.00
		001-000-240-341-81-00-00	Technology Cost Recovery Fee	\$5,431.00
		001-000-240-345-83-00-00	Plan Check Review Fees	\$9,127.00
	Total BLD16-0045			\$9,127.00
Total 43869				
Total Enumclaw School Dist.#216				
43870	BI12930402		2016 - August - August 3rd Batch	
		July Services		
		001-000-210-521-10-48-01	Vehicle Maintenance & Repair	\$708.48
			Police-Oil Change and New Tires for Police Vehicle	
	Total BI12930402			\$708.48
Total 43870				
Total Firestone Complete Auto Care				
Greater Maple Valley-Black Diamond Chamber of Commerce				
43871	9548		2016 - August - August 3rd Batch	
		001-000-110-511-60-43-00	Lodging, Meals and Mileage	\$20.00
			Council-Chamber Luncheon, Council Member Edelman	
	Total 9548			\$20.00
Total 43871				
Total Greater Maple Valley-Black Diamond Chamber of Commerce				
43872	0575063		2016 - August - August 3rd Batch	
		001-000-248-518-20-48-00	MDRT-Bldg/Gen Mtc Costs	\$16.27
			MDRT-Batteries	
	Total 0575063			\$16.27
Total 1092316				
Total 1092316				
		310-000-011-594-18-64-00	General Government Technology	\$75.87
			IT-Blue Cable	
	Total 1092316			\$75.87
Total 1574249				
Total 1574249				
		310-000-011-594-18-64-00	General Government Technology	\$31.87
			IT-Electrical Tape, 100' Extension Cord	
	Total 1574249			\$31.87
Total 1575020				
		001-000-270-576-80-41-02	Venvue Pay Station	\$149.61

Vendor Number Reference Account Number Description Amount

Vendor Number	Reference	Account Number	Description	Amount
Materials to Repair Pay Station Box				
Total 1575020				\$149.61
7144252				
	001-000-210-521-10-31-00		Operating Supplies	\$36.75
			National Night Out-Stakes for Banners	\$36.75
Total 7144252				\$73.50
9581424				
	001-000-254-518-20-31-00		Facilities Operating Supplies	\$17.33
			Facilities-Florescent Bulbs	\$17.33
Total 9581424				\$34.66
9581425				
	001-000-212-521-50-31-00		Police Bldg Mtc Sup	\$99.34
			Police-Florescent Bulbs	\$99.34
Total 9581425				\$198.68
Total 43872				\$427.04
Total Home Depot Credit Service				\$427.04
Honey Bucket/Northwest Cascade Inc.				\$427.04
43873				
			2016 - August - August 3rd Batch	
550099199				
			August Rental	\$87.00
	001-000-270-576-80-31-00		Portable Restroom Facility	\$87.00
			Parks-Boat Launch Rental	\$87.00
Total 550099199				\$174.00
Total 43873				\$427.04
Total Honey Bucket/Northwest Cascade Inc.				\$427.04
Johnsons Home & Garden				\$427.04
43874				
			2016 - August - August 3rd Batch	
407275				
	001-000-180-518-90-31-00		Office Supplies City Hall	\$37.46
			City Hall-Flag	\$37.46
Total 407275				\$74.92
407684				
	001-000-270-576-80-35-00		Small Tools & Safety Equip	\$0.51
	001-000-280-538-20-35-00		Small Tools & Safety Equip	\$0.13
	101-000-000-543-50-35-00		Small Tools & Equipment	\$0.98
	401-000-000-534-80-35-00		Small Tools & Safety Equip	\$1.63
	407-000-000-535-80-35-00		Small Tools & Safety Equipment	\$1.63
	410-000-000-531-10-35-00		Small Tools and Safety Equipment	\$6.51
Total 407684				\$11.39
407798				
	401-000-000-534-80-31-01		Operating Supplies	\$21.42

Vendor	Number	Reference	Account Number	Description	Amount
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Water Funds-Pipe, Valves

Total 407798
Total 43874
Total Johnsons Home & Garden
Kevin Kooyman
43875
\$21.42
\$65.39
\$65.39

BLD16-0029
2016 - August - August 3rd Batch
001-000-240-345-89-99-10
Demo-Deposit
Refund of Demolition Deposit
\$1,000.00

Total BLD16-0029
\$1,000.00
Total 43875
Total Kevin Kooyman
King County Finance I-Net
43876
\$1,000.00
\$1,000.00
\$1,000.00

11004860
2016 - August - August 3rd Batch
July Services
001-000-214-521-20-42-01
Police Comm KC I-Net
\$375.00
\$375.00
\$375.00
\$375.00

Total 11004860
2074970
2016 - August - August 3rd Batch
001-000-182-566-00-51-00
KC Mental Health
Period: April 1 to June 30, 2016
\$269.36
\$269.36
\$269.36
\$269.36

Total 2074970
81916 LR
2016 - August - August 3rd Batch
001-000-210-342-10-01-00
Police Traffic School Fee
Reimbursement of Double Charge
\$136.00
\$136.00
\$136.00

Total 81916 LR
Total 43878
Total Lynn Robbins
\$136.00
\$136.00
\$136.00

Orkin Commercial Services 43879	111747326	2016 - August - August 3rd Batch		
		August Services		
		001-000-248-518-20-49-01	MDRT Bldg Custodial Costs	\$31.02
		001-000-254-518-20-49-01	Facilities Building Custodial	\$88.27
		Total 111747326		\$119.29
Total Orkin Commercial Services Parametrix, Inc. 43880	01-77457	2016 - August - August 3rd Batch		
		July Services		
		320-000-020-595-10-63-00	Roberts Dr Rehab-Eng. Professional Services	\$23,636.50
		Total 01-77457		\$23,636.50
Total Parametrix, Inc. Puget Sound Energy 43881	081216 PSE	2016 - August - August 3rd Batch		
		July 2 to August 2, 2016 Services		
		001-000-254-518-20-47-00	Facilities-Utilities City Hall-Acct 300000007074	\$181.27
		001-000-270-576-80-47-00	Electric/Gas Lake Sawyer Boat Launch-Acct 300000007140	\$26.53
		Total 081216 PSE		\$207.80
Total Puget Sound Energy South Correctional Entity 43882	2074	2016 - August - August 3rd Batch		
		July Jail Services		
		001-000-211-523-60-49-00	Jail Costs 9 Inmate Days @ 157.00 per Day	\$1,413.00
		Total 2074		\$1,413.00
Total South Correctional Entity Summit Law Group 43883	78902	2016 - August - August 3rd Batch		
		April Services-Received Invoice Late		
		001-000-150-515-30-41-08	Legal Svcs-Union Contracts	\$3,761.80
		Total 78902		\$3,761.80

Vendor	Number	Reference	Account Number	Description	Amount
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VenTek International
43886

2016 - August - August 3rd Batch

August Service	001-000-270-576-80-41-02	Venue Pay Station			\$90.00
Total 101418					\$90.00

Total 43886
Total VenTek International
Verizon Wireless
43887

2016 - August - August 3rd Batch

July 11 to August 10, 2016 Service	001-000-214-521-20-42-00	Police Telephone/DSL/Air Cards			\$674.70
001-000-240-558-51-42-00		Police			
001-000-246-558-70-42-01		Community Development			
		Telephones			
001-000-254-518-20-42-00		MDRT (Funding)			
		Facilities-Communication			
001-000-270-576-80-42-00		City Clerk (Funding)			
		Telephone/DSL/Radios			
001-000-280-536-20-42-00		PW/Facilities			
		Telephone, DSL & Radios			
101-000-000-542-90-42-01		PW/Facilities			
		Telephone/DSL/Radios			
401-000-000-534-80-42-00		PW/Facilities			
		Telephone/DSL/Radios			
407-000-000-535-80-42-00		PW/Facilities			
		Telephone/DSL/Radios			
410-000-000-531-10-42-00		PW/Facilities			
		Telephone/DSL/Radios			
Total 9770121713					\$1,197.51

Total 43887
Total Verizon Wireless
WABO
43888

2016 - August - August 3rd Batch

001-000-240-558-51-31-03		Books, Maps & Periodicals			\$879.52
		CD-IBC, IIC Updates and Amendments			
Total 1710					\$879.52

Total 43888
Total WABO

Vendor Number	Reference	Account Number	Description	Amount
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Warm Homes, Inc
43889
PUB16-0013
2016 - August - August 3rd Batch
401-000-000-369-91-00-02 Refund of Water Service Deposit
Total PUB16-0013 \$1,000.00

Total 43889
Total Warm Homes, Inc \$1,000.00
Washington State Patrol 43890 \$1,000.00

117000637
2016 - August - August 3rd Batch
633-000-000-586-00-00-06 Due to WSP-FBI Fingerprinting-Background
July Services \$103.25

Total 117000637
ID001242CM \$103.25
Total ID001242CM (\$14.75)

Total 43890
Total Washington State Patrol \$88.50
Water Management Laboratories, Inc. 43891 \$88.50

151839
2016 - August - August 3rd Batch
August Services
401-000-000-534-80-41-02 Water Testing and Sampling \$21.00

Total 151839 \$21.00
Total Water Management Laboratories, Inc. \$21.00
Yakima County Dept. of Corrections 43892 \$21.00

080316 YCDC
2016 - August - August 3rd Batch
July Jail Services
001-000-211-523-60-49-00 Jail Costs \$273.75
1 Inmate Bed for 15 Days

Total 080316 YCDC \$273.75
Total Yakima County Dept. of Corrections \$273.75
Vendor Count 40 \$273.75
Grand Total \$74,662.10

Voucher Directory



Vendor	Number	Reference	Account Number	Description	Amount
Kara Murphy Richards	43893				
		083116	KMR	2016 - September - 1st Council	
				September Services	\$2,000.00
				001-000-151-515-30-41-04	\$2,000.00
				Court Legal-Pros Attorney	\$2,000.00
Total Kara Murphy Richards					\$2,000.00
Melanie Thomas Dane	43894				
		083116	MD	2016 - September - 1st Council	
				September Services	\$2,000.00
				001-000-120-512-50-41-00	\$2,000.00
				Court Judge	\$2,000.00
Total Melanie Thomas Dane					\$2,000.00
Sorci Family LLC	43895				
		083116	SFLLC	2016 - September - 1st Council	
				September Rental	\$618.00
				001-000-248-518-20-45-02	\$927.00
				MDRT Property Rental Cost	\$2,032.00
				001-000-254-518-20-45-02	\$3,577.00
				Facilities-Prop Rental	\$3,577.00
				001-000-254-518-20-45-05	\$3,577.00
				Facilities City Hall Bldg Rental	\$3,577.00
Total Sorci Family LLC					\$13,700.00
State Auditor Office	43896				
		L115960		2016 - September - 1st Council	
				July Servies	\$1,024.10
				001-000-152-514-10-41-00	\$1,024.10
				Accountability Audit	\$1,024.10
Total State Auditor Office					\$3,072.20
Grand Total				Vendor Count 4	\$8,601.10

BLACK DIAMOND CITY COUNCIL MINUTES

August 18, 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: Seth Boettcher, Public Works Director; Andy Williamson, Interim Community Development Director/MDRT/Ec Dev Director; Jamey Kiblinger, Police Chief; Mike Kenyon, City Attorney; Peter Altman, City Labor Attorney and Brenda L. Martinez, City Clerk.

At 7:00:39 p.m. Mayor Benson announced the Council would be going into an executive session as allowed by RCW 42.30.140(4) to discuss collective bargaining with City Labor Attorney Altman. The executive session was anticipated to last 30 minutes with no final action following the session.

At a ten minute extension was announced 7:30 p.m.

The meeting was called back to order at 7:40:07 p.m.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson announced she received a letter from Gomer Evan's sister and read an excerpt. The whole letter is attached and incorporated into the minutes. She instructed the City Clerk to email a copy of it to the Councilmembers.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to move the consent agenda to be after public comments. Motion **passed** with all voting in favor 5-0.

PUBLIC COMMENTS:

Peter French, Bonney Lake commented that he works for the Enumclaw School District and noted being one of the project managers for the Black Diamond Elementary School project. He read a statement from Superintendent Mike Nelson into the record as Mr. Nelson was unable to attend. This statement is attached and incorporated into the minutes.

Judy Goodwin, Black Diamond commented on the resolution before Council regarding the Traffic Mitigation Agreement with the Enumclaw School District. She noted supporting this resolution and urged Council to support the kids and pass it tonight.

Brock Deady, Black Diamond announced that his wife Councilmember Tamie Deady was named Civil Servant of the Year for Black Diamond. He highlighted the volunteer work she does around the Community.

Melody Mann, Black Diamond asked about the TBD fee and wondered if other money could be used to fund streets. She also asked if people had a say in this fee and inquired as to what projects the money will fund. She stated not being able to afford this fee and not being able to afford the front end alignments due to the shape of our roads and wondered where she could bill that to.

Robbin Taylor, Black Diamond discussed the Six Year Transportation Improvement Plan and the schedule of when it has been before Council and the actions taken on it. She also discussed the ramifications for not passing this plan and the need for Council to get work done for the City.

Kristen Bryant, Bellevue discussed making comments before Council on the Six Year Transportation Improvement Plan. She noted her comments were that there wasn't a clear and detailed breakdown of some of the projects that had multiple funding sources and it might be relevant to identify Transportation Benefit District money; there was not a lot of background information provided in an easy and accessible format to the public that led to how that TIP was put together. She also noted not seeing anything that has addressed that comment. She then read a prepared written statement into the record regarding the voluntary traffic mitigation agreement which is attached and incorporated into the minutes.

Judith Carrier, Auburn discussed enjoying the Labor Day celebration in Black Diamond for over 50 years. She noted attending the July 21 Council meeting and the Council needing to know that what they approve is best for the City. She commented on three Councilmembers expressing appreciation for the Labor Day Committee and volunteers. She discussed key documents not being available to Councilmembers on the 21st and noted that finally on July 29th a packet of information came to only one member of the Council for this event. She then discussed the schedule of approval for fire review, WSDOT review and the three separate permits that were issued on the 25th. She added these were not necessary and may be illegal. She discussed when things go to committee they are there for review and to ask questions so members know what they are approving. She asked how many times the Labor Day permit has come before Council and noted this permit has never come before Council, however it did come before Council on the 21st.

CONSENT AGENDA:

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the Consent Agenda.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to amend the motion to pull out check number 43820 (Kenyon Disend claim voucher) and the meeting minutes of July 21 and August 7 and have them placed under new business for discussion.

There was discussion between Councilmembers as to why these items were being pulled from the consent agenda and placed under new business for discussion.

Vote: Amended motion **passed** 3-2 (Edelman, Deady). Main motion as amended **passed** 5-0. The Consent Agenda was approved as follows:

- 1) **Claim Checks** – August 18, 2016 - No. 43800 through No. 43849 and EFTs in the amount of \$107,019.69 (Excluding check number 43820 -Kenyon Disend voucher)
- 2) **Payroll** – July 31, 2016 – No. 19175 through No. 19193 (voids 18773, 18795, 18829, 19183, 19188) and EFTs in the amount of \$268,305.28

PUBLIC HEARINGS: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

Resolution regarding Voluntary Traffic Mitigation Agreement with Enumclaw School District

Public Works Director Boettcher discussed being very busy with this project and highlighted the actions that have taken place on the project. He stated now that we approved SEPA we need to resolve the traffic issue. The City has reviewed and accepted a proposed pro rata share traffic and safety mitigation contribution proposed by the school district and supported by their transportation technical report. He noted as the appointed professional engineer for the City and fulfilling authority of his role he has reviewed the methodology of the proposal, the equitability, the nexus to the affected intersections and the proportionality of what is proposed. He stated his role is to assess and determine that concurrency requirements have been met as well as in concert with the Planning Director and evaluation of the impacts through SEPA. He noted this being a common type of agreement to address traffic mitigation which allows the school district to move forward with their project and pay a pro rata share of the equitable fix of four intersections. He encouraged Council support so they could move forward on the school project.

Councilmember Edelman encouraged passage of this resolution tonight.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to table this to the Growth Management Committee.

There was discussion among Councilmembers and staff on this issue with the focus being the information before Council, the role of staff, who determines concurrency, the action before Council, the project schedule, questions Councilmembers may have, timing of this issue coming before Council, and the use of committees for items before Council.

City Attorney Kenyon asked for a 10 minute executive session on potential litigation as authorized by RCW 42.30.110(1)(i).

At 8:36 p.m. the Mayor recessed the meeting for an executive session. Mayor Benson, Councilmember Deady and Councilmember Edelman attended the executive session. Councilmembers Morgan, Weber and Pepper declined to attend the executive session. City Attorney Kenyon re-entered the Chambers and individually asked Councilmembers Morgan, Weber and Pepper if they would like to participate in the executive session and again they declined.

Mayor Benson called the meeting back to order at 8:46 p.m.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to authorize the Mayor to execute an agreement with the Enumclaw School District for contribution to improvements at four intersections impacted by the new Black Diamond Elementary School Project.

Councilmember Pepper stated to the Chair that there is already a motion and second on the floor. City Attorney Kenyon confirmed that there was a pending motion to table before the executive session and there should be a vote on that motion unless that motion was ruled out of order which he hadn't heard. Mayor Benson ruled the previous motion to table out of order as there are no Council committees.

Councilmember Pepper appealed the decision of the Chair and was ruled out of order.

Councilmember Edelman called the question.

City Attorney Kenyon clarified for the record that the motion to table was ruled out of order by the presiding officer and given that, that motion is no longer on the floor. The motion on the floor is a motion to authorize the Mayor to execute the Traffic Mitigation Agreement and that's what Council is voting on now.

Vote: Motion **passed** 4-1 (Morgan).

Kenyon Disend Claim Voucher

Councilmember Weber discussed being concerned that the contracts being authorized by the Mayor under her \$15,000 authority are serial contracts and circumventing the hiring of a full time Attorney. Mayor Benson noted she has the authority to hire the City Attorney and state law requires the City to have an attorney and if Council won't approve the contract she can approve them over and over as it's required by law.

Councilmember Weber noted bringing this issue up before when discussing building permitting and noted the Mayor had the authority to do a contract and the Mayor's response back was to call a special meeting. He added if he understands correctly (needs to go back and look at the email) that according to the state auditor that's kind of a red flag when you are continually doing serial contracts. Mayor Benson commented that she had a conversation with the state auditor on this and it is ok as the City has to have an attorney.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to pay claim check #43820 for Kenyon Disend in the amount of \$15,126.54. Motion **passed** 4-1 (Morgan).

Minutes of July 21, 2016 and August 4, 2016

Councilmember Pepper discussed pulling the minutes of August 4th and July 21 as two citizens reached out concerned that their public comments were not reflected as accurately as they could be.

There was Council discussion on the August 4th minutes.

A **motion** was made by Councilmember Weber to postpone approval of these minutes until the next regularly scheduled meeting and give time to go back and listen to the audio.

There was Council discussion on the July 21st minutes.

Councilmember Weber **withdrew** his motion.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Pepper to amend the August 4th minutes to include the two emails for those citizens. Motion **passed** with all voting in favor 5-0.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to postpone action on the July 21st minutes to the next regular Council meeting on September 1, 2016. Motion **passed** 3-2 (Edelman, Deady).

DEPARTMENT REPORTS:

Police - Chief Kiblinger distributed and reviewed with Council the Black Diamond Police Department Report/Update for August 2016.

Community Development – Interim Community Development Director Williamson reported on the Tough Mudder event that is coming to the City. He noted the special event permit will be coming before Council at their September 1st meeting and distributed information to Council regarding this event. He urged Council to call him with any questions they may have as there is a need for Council action at the meeting on September 1st.

In addition, Mr. Williamson distributed the DKS claim voucher along with the information requested during the last Council meeting by Councilmember Morgan and the agreement of Council if he brought the requested information forward, Council would approve the payment. He noted following Council's direction and stated he is hopeful that there will be Council action on this tonight.

Councilmember Weber noted appreciating taking Councilmember Morgan's and his suggestion and asked if this action needed to be done by resolution. City Attorney Kenyon stated there is no legal requirement to have it approved by resolution – it can be done by a motion.

Councilmember Morgan commented on wanting to make sure that the spending authority of the Mayor applies in the future.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to take the DKS Voucher off the table and approve payment. Motion **passed** with all voting in favor 5-0.

MAYOR'S REPORT:

Mayor Benson reported that Judge Dane will be attending the next Council meeting to give an update on the Court. She also reported attending the SCATBd meeting, one year celebration of life for Greg Goral. She discussed attending Chief for a Day and would like to bring them to a future Council meeting for introductions.

COUNCIL REPORTS:

Councilmember Deady discussed how she makes times to address issues with staff when working a full time job in November and December. She noted attending the Port of Seattle Tour, Chief for a Day, and the one year celebration of life for Greg Goral.

Councilmember Morgan reported on the budget and financial workshop she attended. She highlighted topics and points of discussion from this workshop.

Councilmember Edelman reported she attended a meeting on August 11 with the Mayor, Finance Director and Councilmember Deady to review the vouchers, the one year celebration of life for Greg Goral, Chamber Luncheon on August 17th, Port of Seattle Tour, and Chief for a Day.

Councilmember Weber commented that the children from Black Diamond Elementary School will be attending JJ Smith this school while the new school here in Black Diamond is being built. He also noted the School District has done a great job in getting that facility ready for the kids. He thanked the Boys Scouts who were in attendance at the meeting.

Councilmember Pepper commented on the need for a professional parliamentarian at the Council meetings. She noted having known parliamentary process in different settings and the need to have a registered parliamentarian so the roles and duties of all can be done. She also noted needing to work on points of order and other areas and believes it's exciting that Black Diamond is getting a new elementary school.

ATTORNEY REPORT: None

PUBLIC COMMENTS: None

ADJOURNMENT:

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adjourn the meeting. Motion **passed** with all voting in favor (5-0). The meeting ended at 9:33 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk

Take a WALK INTO (BD) cemetery - Maybe, you can feel the anguish
8-8-2016

Gomer Evans Sister

CITY OF BLACK DIAMOND
RECEIVED
AUG 11 2016

Open Letter To the
Black Diamond "City Council"

BY: I WAS BORN AND RAISED, AT Black Diamond CITY HALL Washington, FEB 11-1923.

My Parent's, ALICE MAE, Gomer EVANS OUR "MOTHER", WAS THE "BEST", greatest mothers IN THE WHOLE WORLD".

RECEIVED
CLERK OFFICE
AUG 18 2016
B/M

BY: The "City Council" WANTS to take away LABOR "Day" - there cannot be anyone FROM Black DIAMOND ON THIS COUNCIL OR THAT WORD WOULD NOT BEEN SAID.

I graduate FROM Black Diamond - grade SCHOOL - AND ALSO High School

I was married AT the Black Diamond Presbyterian church 73 yrs ago -

you are taking "apples, cherries" FROM every child, grand hild, great grand that WAS raised, including the children that live here now. AWAY

Waiting for "Labor Day - July 4th" ICE Cream - Laces, HOATS Popcorn ETC - AND Xmas comes LAST ON THE LIST FOR Black Diamond -

There is still - children FROM B Diamond MYSELF - 8 grandchildren (1) 9-9-grandchildren (3) ggg children

Brother's: Jim, Dave, Gomer, TOMMY
Sister's: mariet, margaret, LYDIE, DeBBY, Barbara

Sincerely

Lynne Bonnell

RECEIVED
CLERK OFFICE

AUG 18 2016

BY: BYM

August 18, 2016

The District appreciates and relies on the City's support of the Black Diamond Elementary School project. The new school is needed so the District can provide the best possible educational environment to the City's youngest residents.

The City's transportation concurrency ordinance controls the issue of traffic mitigation. Consistent with that ordinance, the District worked with the Director of Public Works and the then-Director of Community Development to address traffic mitigation during the environmental review of the project. The City reviewed the traffic impact analysis, evaluated the capacity needs, and identified appropriate mitigation based on projects at the affected intersections included in the transportation element of the City's Comprehensive Plan. As required by the concurrency ordinance, this mitigation condition was included as part of the project's threshold determination. There was no appeal of the MDNS and the mitigation condition is final. The concurrency ordinance does not provide for additional review or approval. We are now ready to pay the agreed and final mitigation payment so that we can obtain the building permit. This is the only outstanding item.

Moving forward at this time is critical. The contractor is on site and any delay in receipt of the building permit could lead to costly and unnecessary delay damages, and ultimately could delay the reopening of the school.

We ask that you direct staff to move forward consistent with the City's concurrency ordinance and accept the mitigation payment and issue the building permit.

Thank you so much for your support of our shared elementary students.

Sincerely,



Michael Nelson
Superintendent

Kristen Bryant
RECEIVED
CLERK OFFICE

AUG 18 2016

BY:

BYM

Voluntary Traffic Mitigation Agenda Item

I first read this item earlier this week, and it only became ~~available to the~~ public last Friday afternoon. It is complicated and is important because it is going to affect a very busy traffic area, and parents taking their kids to school.

It's unclear whether this is a SEPA mitigation, or a concurrency determination to meet concurrency under the city's concurrency ordinance, or both.

The Memorandum of Agreement states: "The City finds that by executing and complying with the terms of the Agreement, the District has satisfied the City's Concurrency requirements under Black Diamond Municipal Code Chapter 11.11.

When you go online you see that Chapter 11 is "reserved" and nothing is listed. So, we the public do not know what Chapter 11.11 says.

The question for the Council is what proof do you have that the City's Concurrency requirements will be met if you approve this Agreement?

There is nothing in the Agenda Packet that shows whether a concurrency test was done. No Traffic Impact Analysis, no Traffic Demand Model, no traffic counts, nothing.

The council is being asked to make a determination about Concurrency without a technical concurrency analysis.

The permit for the school district has been worked on for months, but the Public and the Council have less than a week to review this, without any of the relevant information.

This could be a precedent setting vote. The Council must not establish the policy that money alone will solve traffic congestion. Just because the District pays \$75K from one taxpayer's pocket to the other doesn't guarantee that the intersections will be safe and workable for the public, school busses and parents trying to drop off and pick up their kids.

BLACK DIAMOND CITY COUNCIL MINUTES

July 21, 2016

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

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

ROLL CALL:

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

ABSENT: None

Staff present: Seth Boettcher, Public Works Director; Mayene Miller, Finance Director; Kevin Esping, Facilities Coordinator; Megan Ross, Police Officer; David Linehan, City Attorney, and Brenda L. Martinez, City Clerk.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson announced attending the Black Diamond/Maple Valley Chamber Wacky and Wild Golf Tournament along with Councilmember Deady and her husband. She reported they won first place for having the best decorated golf cart and were awarded a trophy. She also gave credit to Councilmember Deady's family for their help on the design.

Councilmember Pepper asked for the floor. A point of order was called and Mayor Benson ruled out of order. Councilmember Pepper appealed the decision asked the Chair what was the decision. Mayor Benson again called her out of order. Councilmember Pepper asked to please state the point of order and appealed the decision of the Chair. Councilmember Morgan seconded the appeal and Mayor Benson ruled out of order.

CONSENT AGENDA:

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to approve the Consent Agenda.

A **motion** was made by Councilmember Morgan to not approve the Consent Agenda as we need to hear from the public first. Motion **died** due to lack of second.

Motion **passed** 3-2 (Morgan, Weber). The Consent Agenda was approved as follows:

- 1) **Claim Checks** – July 21, 2016 - No. 43712 through No.43759 and EFTs in the amount of \$161,913.56
- 2) **Minutes** – Tri-City Council Meeting of May 4, 2016

A **motion** was made by Councilmember Pepper to amend the motion to not approve the consent agenda until we have a substitute agenda as the agenda she distributed to the Council which was created in accordance with the Council rules and the Clerk and Mayor were notified of the needed changes and was emailed to the Council on Tuesday. Mayor Benson called her out of order. Motion **died** due to lack of second.

Mayor Benson noted the agenda is illegal and Council can add or remove items from the agenda, but not substitute an agenda.

Councilmember Pepper appealed the decision of the chair.

PUBLIC COMMENTS:

Ginger Passerelli, Black Diamond commented on the Soup Ladies representing Black Diamond in Dallas where the five police officers were killed in the line of duty. She noted they served close to 3,000 meals during the nine days they were there. While there she asked for a list of fire departments who responded to the tragedy. She noted the City's Fire Department District 44 overnighted a t-shirt and badges from their department and when she arrived at the first fire station she realized it was Station 44 and presented these to that department. She also commented that while she loves to represent this wonderful community the behavior at this meeting breaks her heart.

Councilmember Edelman thanked Mrs. Passerelli for all she is doing.

Angelina Taylor, Port Orchard discussed the pulling of the DKS and Yvonne Ward vouchers on both agendas. She noted these are services that have already been rendered. She also discussed the Talmadge bill.

Colin Lund, OakPointe briefed Council on the progress of the MPDs and where they are at. He noted Goodfellow Brothers is the primary contractor and they are doing a great job. He highlighted the projects that are currently being worked on and added they have a refreshed website www.inblackdiamond.com and on it is a place to sign up to receive their newsletter. He also added that if anyone has any issues or concerns to please give him a call and if any Councilmember would like a one on one tour he'd be happy to set one up.

Robbin Taylor, Black Diamond commented on the use of committees. She noted there being committee meetings on July 20 and wondered how those meeting were noticed. She stressed that no one knew there were committee meetings on the 20th where three councilmembers were present.

Brock Deady, Black Diamond commented on appreciating the update from OakPointe and as a citizen would like to hear more updates. He agreed with Robbin Taylor's comments and would have like to have been invited to the committee meetings on the 20th.

Darrell Bryant, Black Diamond urged Council to consider approving the Labor Days Special Event Permit tonight. He noted this event has been here for over 100 years and it would be a shame to have it go committee.

Judith Carrier, Auburn commented on what is happening in our country and what is happening in the Council Chambers and discussed certain items on the voucher registers.

Melissa Ogsbee, Black Diamond encouraged Council to keep the Labor Day celebration on the agenda as it is a timely matter. She noted the 12 committee members have worked really hard on this event for the last nine months. It takes approximately \$15,000 to run this event and so far they have raised \$9,000 in donations. They have spent \$2,500 on insurance for the parade which is non-refundable and again she encouraged Council to keep this item on the agenda and let the community come together and enjoy each other and have fun.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

DKS Claim Voucher

Councilmember Pepper asked for the floor and called Point of Order. Mayor Benson called her out of order as she has not been recognized to speak. Councilmember Pepper appealed the decision of the Chair. Mayor Benson again ruled her out of order. Councilmember Morgan seconded Councilmember Pepper's appeal. Mayor Benson ruled her out of order. Point of Order was called for by Councilmember Edelman. Mayor Benson continued to call Councilmember Pepper out of order.

Mayor Benson called a five minute recess at 7:28 p.m. The meeting was called back to order at 7:34 p.m. and noted the next item on the agenda is the DKS Claim Voucher.

Councilmember Weber commented that this item was voted down at another meeting and doesn't understand why it is back on the agenda. He noted there not being a contract with DKS and would like to table this item.

Discussion began between Councilmembers on this item and Councilmember Weber noted being concerned that the city did not have a direct contract with DKS as the contract was with BergerABAM and the responsibility lies with BergerABAM.

City Attorney Linehan was asked if the City had a contract with BergerABAM would that constitute a contract with DKS who was a subconsultant. He stated he would need to review the contract with BergerABAM and did say that typically once the city has received the benefit of services provided, whether there is or is not an expressed contract, there is an unjust enrichment claim that can be made against the City for unjustly being enriched by being the recipient of services for which it has not paid.

Councilmember Weber asked Attorney Linehan how that works as far as the municipal code. Does one override the other? Attorney Linehan stated what's in the municipal code is an entirely separate matter from whether or not there is a liability to a third party resulting from the City's receipt of services without paying for them.

Discussion continued amongst Councilmembers on this item regarding postponing, contract with BergerABAM, supporting documentation and the work product the city received.

Councilmember Pepper read Council Rule 7.2.8 regarding tabling of an item.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to postpone this item to the August 4th regular Council meeting.

Discussion continued with the focus being on why this item needs to be postponed.

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

Yvonne Ward Claim Voucher

Councilmember Weber discussed asking for some information from the City on this matter. He noted he did get most of the information he requested. He also noted his request for all correspondence with Ms. Ward was turned into a PDR which will take 20 or more business days for a response. He stated he would like to go through the invoice in detail to see if the City got what we paid for.

Council discussion continued on this item.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Morgan to postpone this item to the August 4th regular Council meeting. Motion **passed** 3-2 (Edelman, Deady).

Resolution adopting the 2017-2022 Six Year Transportation Improvement Plan (TIP) for the City

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the resolution adopting the Six Year Transportation Improvement Plan (TIP).

There was Council discussion regarding not having specifics to the proposed projects and no connectors. Councilmember Weber noted there are still some questions out there that he has.

Vote: Motion **failed** 2-3 (Morgan, Weber, Pepper).

Community Development Director Kincaid cautioned Council not to confuse the maps from the incomplete work from DKS as the TIP is using current information from the current comprehensive plan and that is why you update the TIP and Comprehensive Plan yearly so they are consistent.

Resolution authorizing a contract with DKS Associates

Community Director Kincaid thanked Council for reconsidering this contract. She noted this resolution authorized the Mayor to enter into a not to exceed contract with DKS for the transportation element of the Comprehensive Plan. She highlighted the seven tasks associated with this contract and recommended that Council not spend the money on the last task regarding attendance at hearings.

There was Council discussion on this item.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the resolution authorizing the Mayor to execute a contract with DKS for the transportation element of the Comprehensive Plan and deleting task 7 from the scope of work as recommended by Ms. Kincaid.

Vote: Motion failed 2-3 (Morgan, Weber, Pepper).

NEW BUSINESS:

Resolution authorizing a services contract with Kenyon Disend, PLLC

Mayor Benson stated that by law the City is required to have a City Attorney. She added this item was voted down before, however the City needs to have an attorney and that attorney needs to be confirmed by the Council.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt the resolution authorizing the Mayor to execute a services agreement with Kenyon Disend, PLLC.

There was discussion between Councilmembers on this item and an inquiry was made on where the legal services budget is at currently for 2016.

Vote: Motion failed 2-3 (Morgan, Weber, Pepper).

Resolution approving the Labor Days Special Event Permit

Community Development Director Kincaid reported Black Diamond Municipal Code states that a special event application for a multiple day event must be approved by Council. She noted this is a city sponsored event. The Labor Days committee has fulfilled all the responsibilities as provided for in code and the event will take place in the same area as in

the previous years. She invited Melissa Oglsbee to talk about this year's event and asked Council to support staff's recommendation of approval.

Ms. Oglsbee discussed the lineup for this year's event and urged Council to consider approving the permit tonight.

Discussion ensued between Councilmembers on the paperwork for this year's permit.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to approve the Labor Days special event permit.

Discussion continued between Councilmembers on why there is a need to wait to approve this item.

Point of order was called for and Mayor Benson ruled Councilmember Morgan out of order.

Mayor Benson called a five minute recess at 8:48 p.m. The meeting was called back to order at 8:53 p.m.

Vote: Motion failed 2-3 (Morgan, Weber, Pepper).

EXECUTIVE SESSION:

At 9:00 p.m. Mayor Benson announced a fifteen minute executive session to discuss with legal counsel eminent domain litigation as allowed under RCW 42.30.110(1)(c) and (1)(i) with no action to follow. Mayor Benson announced a five minute extension.

The meeting was called back to order at 9:20 p.m.

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

Mayor Benson announced that she and Councilmember Deady attended the AWC Conference in Everett; attended SCA networking dinner, Chief for a Day fundraiser, Chamber's Wild and Wacky golf tournament; met with Les Burberry (new Maple Valley Councilmember) and he is looking into the future on SR169 projects and funding for these with King County.

COUNCIL REPORTS:

Councilmember Deady discussed the AWC Conference she and the Mayor attended; reported receiving her Certificate for Municipal Leadership Training Program; attended SCATBd meeting; met with Finance Director Miller on vouchers; attended Public Safety

meeting, Miners Day festival, and Chief for a Day fundraiser; noted running the free kids booth station at the Farmer's Market every Friday; served soup at Joint Base Lewis McCord as a Soup Lady.

Councilmember Morgan – no report.

Councilmember Edelman discussed the Chief for a Day fundraiser and noted that over \$1,800 was raised. She discussed the AWC Conference and the Councilmembers having a training budget and this budget was used for the Mayor's and Councilmember's Deady attendance.

Councilmember Weber commented on the Soup Ladies being an awesome group and appreciated that they are from Black Diamond; inquired about the new location of the Farmer's Market and wondered how it is working out.

Councilmember Pepper noted she would like to see a sign for the gym so people are aware the City has one and its location. She also noted participating in the 5K run on Miners Day.

ATTORNEY REPORT:

City Attorney Linehan reported working hard with the Public Works and Community Development departments on projects. He also reported working with the Police and Administration on public record requests. He discussed it being very helpful for Council to think about the kinds of legal issues that might come up on an item on the agenda and to ask the attorney prior to the meeting. He noted this helps legal counsel do a thorough analysis so he can give good legal advice rather than off the cuff at the meeting which will be vague. He also added he can respond with that communication having attorney-client privilege.

PUBLIC COMMENTS:

Angelina Taylor handed a public records request to the Clerk. She personally apologized to all the police and first responders in regards to a speaker comparing events here tonight with those happening in Texas and Baton Rouge. She discussed the Labor Days event not costing the city a dime; she questioned the hiring of an attorney from Bainbridge Island; she also noted the three councilmembers could be sued for voting the voucher items down.

Leslie Coulee, Black Diamond stated that she is on the Labor Days Committee and being here tonight regarding the special event permit. She also commented on how the room emptied after the action of Council voting that item down.

Robbin Taylor, Black Diamond commented on the insurance for the Labor Days parade being non-refundable and the city not paying anything for this event. She discussed the dismissal of the Edelman lawsuit, the firing of Carol Morris and the Talmadge contract being signed before there was Council action on it.

ADJOURNMENT:

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Weber to adjourn the meeting. Motion **passed** with all voting in favor (5-0). Meeting ended at 9:49 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk

DRAFT

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution accepting the Jones Lake Road Overlay project	Agenda Date: September 1, 2016	
	AB16-047	
	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): \$0	Public Works – Seth Boettcher	X
Fund Source: --	Court – Stephanie Metcalf	
Timeline: Fall 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		
SUMMARY STATEMENT: Councilmembers Deady and Edelman requested this item to be placed on the agenda. Lakeridge Paving Company completed the required work for the Jones Lake Road Overlay project. Lakeridge posted a retainage bond which will be held until release is received by the Department of Revenue, Department of Labor and Industries, and the Employment Security Department. Once release from these departments has been received, the City may release the retainage bond. FISCAL NOTE (Finance Department): This project is under budget.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 16-xxx (Clerk to assign number at adoption) accepting the Jones Lake Road Overlay project by Lakeridge Paving Company as complete according to the contract documents.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 1, 2016		

RESOLUTION NO. 16-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING FINAL ACCEPTANCE OF THE JONES LAKE
ROAD OVERLAY PROJECT

WHEREAS, Lakeridge Paving Company has completed the Jones Lake Road Overlay project according to the contract; and

WHEREAS, RCW 60.28.011(2) allows a period of forty five days to file any liens or claims with the City; and

WHEREAS, RCW 39.080.030 requires acceptance of a Public Works project as complete as a formal, public action;

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

Section 1. The City hereby accepts the Jones Lake Road Overlay project as complete and as set forth in that contract with Lakeridge Paving Company.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF SEPTEMBER, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution approving the Tough Mudder Special Event permit SEP16-0014	Agenda Date: September 1, 2016	
	AB16-048	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	X
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	
	Police – Chief Kiblinger	
Public Works – Seth Boettcher		
Court – Stephanie Metcalf		
Cost Impact -		
Fund Source: - Full cost recovery prepaid by Tough Mudder, LLC.		
Timeline: September 24-25, 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 and Staff Letter Dated August 25, 2016.		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have requested this item be placed on the agenda.		
<p>The Tough Mudder Event is a 10-12 mile foot race obstacle course that takes place at 31407 3rd Avenue, land owned by Palmer Coking Coal and a portion of the Lake Sawyer Regional park. This is an annual 2-day event scheduled for September 24th and 25th from 7am to 7pm. It is expected to attract 7,000 participants and spectators. BDMC 2.59.040 requires City Council approval events lasting more than one day.</p> <p>This permit, SEP16-0014, was reviewed by all relevant departments who submitted comments and conditions for organizers to comply with. Additionally, the applicant has met all criteria for issuance of a Special Events Permit, including prepayment of a deposit to cover cost of public services needed for this event. If approved with conditions, the reviewers find no basis to deny this permit. Therefore, the Community Development Director is recommending approval of the Special Events Permit, SEP16-0014, with conditions stated in the letter to the applicant dated August 25, 2016 along with any additional items the Council deems appropriate.</p> <p>FISCAL NOTE: All City supplied services for this event will be reimbursed to the City based on the current rates for services provided. Additionally, if Tough Mudder sells any merchandise during the event and charges sales tax, they remit this sales tax to the State of which the city gets a share.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-xxx (Clerk to assign number after adoption), authorizing the Mayor to execute an agreement with Tough Mudder, LLC. approving Special Event Permit SEP16-0014		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote

RESOLUTION NO. 16-xxxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE CITY COUNCIL TO APPROVE THE
TOUGH MUDDER SPECIAL EVENT SEP16-0014**

WHEREAS, Tough Mudder, LLC has proposed a two-day athletic event to occur on private property and a portion of Lake Sawyer Regional Park within the city limits on September 24th and 25th, 2016; and

WHEREAS, Black Diamond Municipal Code 2.59.040(B) requires the City Council to approve any special event that exceeds one day in duration; and

WHEREAS, City staff has reviewed the proposed activity and recommends it be approved, subject to the comments/conditions as outlined in the Staff letter to the applicant dated August 25, 2016;

**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 approval of Special Event Permit #SEP16-0014 for the Tough Mudder two-day event to be held on September 24th and 25th, 2016.

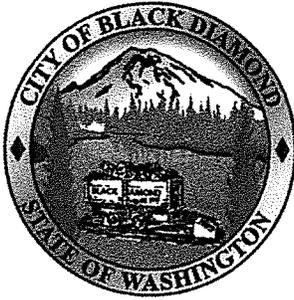
**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF
SEPTEMBER, 2016.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



CITY OF BLACK DIAMOND

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

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

August 25, 2016

Robin Pigozzi
Manager of Event Operations Western Region
Tough Mudder, LLC
15 Microtech Center, 7th Floor
Brooklyn NY 11201

Dear Ms. Pigozzi:

The City of Black Diamond is in receipt of your special event application for the 2016 Seattle Tough Mudder challenge to be held from 7am to 7pm on September 24th and 25th at 31407 3rd Avenue, Black Diamond, Washington. The City also understands that this event will use a portion of the City's Lake Sawyer Regional Park. Your Special Event Permit application number is SEP16-0014.

Application SEP16-0014 has been reviewed pursuant to Black Diamond Municipal Code (BDMC) Chapter 2.59. This application is complete and all relevant Departments have provided comments on your proposal. The following list of conditions will be required subject to permit approval.

Fire Conditions, Fire Marshal Robert Young, 253-735-0284

1. Vehicle traffic and back up shall not hinder fire department access. A 20 foot dedicated access must be maintained in and out of the site at all times during the event.
2. An additional engine and crew, paid by Tough Mudder, LLC, is required to provide for protection of the community during this event and to avoid traffic delays and additional event required service demands. **Please call 253-569-4211 to arrange for payment of the additional engine and crew.**
3. Inspections of all tents, cooking and equipment fueling areas are required. All tents/membrane structures with 3 sides or more shall have "EXIT" signs posted in compliance with the requirements of the 2012 International Fire Code (IFC). **NO SMOKING** signs shall be posted in all tents/membrane structures. **Please call 253-735-0284 if you have questions regarding IFC requirements.**
4. No cooking or open flames are allowed in any tent/membrane structure where there is public access. Mobile cooking facilities shall meet the 2012 IFC requirements for fire suppression systems including proper portable fire extinguishers. In addition to ABC Fire extinguishers, Class K extinguishers are also required for cooking areas with solid fuels and deep fat fryers. A minimum of one (1) 2A10BC fire extinguisher is required to be located within 75 foot travel distance of all

main camp areas, including but limited to tents/membrane structures. All fire extinguishers shall be visible and accessible at all times. **Please call 253-735-0284 if you have questions regarding IFC requirements.**

5. Crowd management is required pursuant to Chapter 4 of the 2012 IFC for public events. The number of event staff shall meet the numbers required by the 2012 IFC and they must be trained to carry out their duties and have the ability to summon emergency aid if needed.
6. A clearly defined and identifiable Command Post location is required to allow rapid access by the fire department in the event of an emergency.
7. Open flames of any kind are strictly prohibited, other than those used for cooking in approved cooking appliances unless specifically permitted by the fire department. This includes all props, lighting, or camp fires.
8. All portable and fixed stages shall be inspected and approved by the fire department. Onsite inspections shall be coordinated with the event staff. **Please call 253-569-4211 to arrange for inspections.**

Public Works, Seth Boettcher, Public Works Director, 360-886-5700, ext. 5711

9. This event is approved provided that Tough Mudder provides Public Works with a minimum of a 2 week notice if they want a 2 inch fire hydrant meter.

Police, Chief Jamey Kiblinger, 253-631-1012

10. Event coordinator shall provide the Black Diamond Police Department (BDPD) with an off-road vehicle for emergency access. No ingress or egress will occur on SR 169. All traffic will be routed off the Lake Sawyer Road to the Palmer Coking Coal entrance.
11. The BDPD assigned posts schedules are as follows:

Saturday, September 24th, 2016

Officer #1 – 3rd Ave (SR169)/Community Center from 5:30am to 7pm
Officer #2 – 3rd Ave (SR169)/Community Center from 5:30am to 7pm
Officer #3 – Lake Sawyer Rd/Palmer Coking Entrance from 5:30am to 7pm
Officer #4 – Lake Sawyer Rd/Palmer Coking Entrance from 11:00am to 7 pm
Officer #5 – Lake Sawyer Rd/Roberts Dr from 5:30am to 7 pm
Officer #6 – Floater from 5:30am to 7 pm

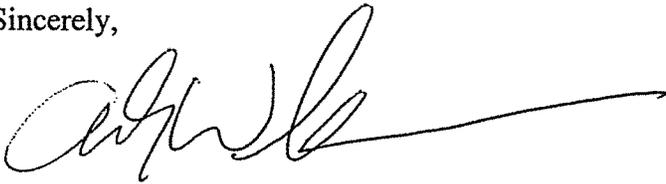
Sunday, September 25th, 2016

Officer #1 – 3rd Ave (SR169)/Community Center from 6:30am to 5pm
Officer #2 – 3rd Ave (SR169)/Community Center from 6:30am to 5pm
Officer #3 – Lake Sawyer Rd/Palmer Coking Entrance from 6:30am to 5pm
Officer #4 – Lake Sawyer Rd/Palmer Coking Entrance from 12:00pm to 5pm
Officer #5 – Lake Sawyer Rd/Roberts Drive from 6:30am to 5pm
Officer #6 – Floater from 6:30am to 5pm

12. The total costs of required Public Services are fully reimbursable under the City of Black Diamond fee schedule.

Approval of Permit Number SEP16-0014 is ultimately the City Council's decision. This permit application and letter of conditions for approval will be presented to Council at their September 1, 2016 meeting. You are invited to attend. The meeting begins at 7:00pm at City Council Chambers, 25510 Lawson St., Black Diamond, Washington. City staff will notify you via email of Council's decision within five (5) working days from the date of this meeting. Should you have questions, please let me know. My phone number and email are listed below. The City of Black Diamond thanks you for your application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Williamson', with a long horizontal flourish extending to the right.

Andy Williamson
In-term Community Development Director
(360) 886-5700, ext. 5715
awilliamson@ci.blackdiamond.wa.us



CITY OF BLACK DIAMOND
Service Agreement



City Assistance required from (department):

Police Department

Organization/Person requesting Assistance:

Tough Mudder- Robyn Pigozzi

Event:

Tough Mudder-10-12 mile obstacle course

Date:

September 24-25th, 2016

Please describe the event and what services will be needed:

Traffic control will be provided for the event as outlined below:

Saturday-

SR 169 entrance- 1 officer 5:30am to 6 pm (12.5 hours)
Lake Sawyer Rd entrance – 1 officer 5:30 am to 6 pm, 1 officer 11 am to 6 pm (18.5 hours)
SR 169 and Roberts DR – 1 officer 5:30 am to 6 pm (12.5 hours)
Lake Sawyer Rd/Roberts DR – 1 officer 5:30 am to 6 pm (12.5 hours)
Floater- 1 officer 5:30 am to 6 pm (12.5 hours)

68.5 total hours at \$85.00 = \$5822.50

Sunday-

SR 169 entrance- 1 officer 6:30 am to 4 pm (9.5 hours)
Lake Sawyer Rd. entrance – 1 officer 6:30 am to 4 pm, 1 officer 12 pm to 4 pm (13.5 hours)
SR 169 and Roberts DR- 1 officer 6:30 am to 4pm (9.5 hours)
Lake Sawyer Rd/Roberts Dr- 1 officer 6:30am to 4pm (9.5 hours)
Floater- 1 officer 6:30am to 4pm (9.5 hours)

51.5 total hours at \$85.00 = \$4377.50

Total Cost = \$10,200.00

The City of Black Diamond agrees to provide these services on the requested date(s). The City of Black Diamond will bill for all services on an hourly basis per the adopted fee schedule. Per contract many city services require a 3 hour minimum billing.

[Signature] - Chief of Police City Staff Signature, Title	7/29/16 Date
--------------------------------------------------------------	-----------------

_____ agrees to pay for the services the City of Black Diamond is providing.

Applicant Signature, Title	Date
----------------------------	------



**Washington State
Department of Transportation**

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710
206-440-4000
TTY: 1-800-833-6388
www.wsdot.wa.gov

August 11, 2016

**CITY OF BLACK DIAMOND
COMMUNITY DEVELOPMENT**

AUG 17 2016

SEP 16 - 2016
PERMIT NUMBER

Robyn Pigozzi,
Manager of Event Operations Western Region
Tough Mudder, Inc.
15 Metrotech Center, Floor 7
Brooklyn, NY 11201

Dear Ms. Pigozzi:

Enclosed for signature and return is our WSDOT Northwest Region Special Event Letter of Agreement #16Jul817 for Tough Mudder Seattle PCMS placement on SR 169 from Saturday, September 17th 2016 through Sunday, September 25th 2016; and, flagging operations on SR 169 on Saturday, September 24th and Sunday, September 25th 2016.

Please review the agreement carefully and indicate your concurrence by countersigning and returning the enclosed copy for final processing by Thursday, August 18th 2016. You may email the agreement to Patricia Hardway (hardwap@wsdot.wa.gov) and myself (NauB@wsdot.wa.gov) at the Washington State Department of Transportation, P.O. Box 330310, MS 125, Seattle, WA 98133-9710; or fax to: 206-440-4804. Please note that failure to meet the conditions set forth in the agreement will render the agreement invalid.

Should you have any questions or concerns, you may contact Patricia Hardway of my staff at 206-440-4474.

" Sincerely,

For Bonnie Nau


Bonnie Nau
Construction Traffic & Central Operations Manager

BN/pjh
Enclosure: Agreement;
Attachment

WSDOT NW Region Special Event Letter of Agreement #16Jul817
Tough Mudder Seattle -- SR 169

This agreement is made and entered into on this 12th day of August 2016, by and between the Manager of Event Operations Western Region, Robyn Pigozzi, hereinafter referred to as the "EVENT COORDINATOR," representing the *Tough Mudder, LLC*, for the purpose of staging an event on state highway(s) rights of way.

Event Description

The 2016 **Tough Mudder Seattle** is hereinafter referred to as the "EVENT".

Whereas, WSDOT and the Washington State Patrol, hereinafter referred to as "WSP" have determined that the EVENT may impact normal traffic operations on state highway(s) to the extent that special traffic controls or other safety considerations are required.

Whereas, WSDOT with the advice of WSP conditionally approves **EVENT sign placement and traffic control within Black Diamond city limits and per city permit, at the access to the Palmer Coking Coal Company (31407 3rd Avenue Enumclaw-Black Diamond Road), in the vicinity of SR 169 mileposts 6.75 to 7.00, on the dates of Saturday, September 24th and Sunday, September 25th 2016**, as follows:

1. The City of Black Diamond Police Department may conduct flagging operations at the business access entrance of the Palmer Coking Coal Company as determined in the traffic control plan approved and provided by the City of Black Diamond. The flagging hours of Police presence at the business interest are as follows:

Saturday, September 24th -- from 7:00 a.m. to 6:00 p.m.
Sunday, September 25th -- from 7:00 a.m. to 6:00 p.m.
2. **EVENT PCMS placement on SR 169, in the vicinity of mileposts 6.75 to 7.00**, subject to the terms and conditions of the City of Black Diamond permit, the Traffic Control section of this Agreement and the traffic control plan approved and provided by the City of Black Diamond.

The abovementioned operations are subject to the terms and conditions in this Agreement, including any Exhibits or Attachments.

Administration and Procedures

1. WSDOT enters into this written agreement with you for the purpose of defining responsibilities and requirements for EVENT operations on state highways. This Agreement is not effective unless or until signed by you and countersigned by WSDOT prior to the commencement of the EVENT. WSDOT assumes no obligation for any EVENT, pursuant to an agreement form that is unsigned, or altered by the EVENT COORDINATOR without WSDOT concurrence. WSDOT reserves the right to postpone or deny an EVENT operation when approval is requested without sufficient advance notice, as determined by WSP or WSDOT.
2. You are encouraged to use county roads or city streets if at all possible. You are responsible for securing approval from local agencies or communities in unincorporated areas that may be impacted by the EVENT. If the EVENT takes place on city streets without access control that are part of state highways, you shall furnish WSDOT with courtesy copies of any traffic control, insurance, or liability agreements made with local agencies.
3. **This agreement is contingent upon an issue of permit and approval of Traffic Control by the City of Black Diamond.**
4. You are responsible for any and all costs incurred by WSDOT and WSP during implementation and operation of the EVENT. WSDOT and WSP shall submit separate billings to you to recover individual agency costs and shall be paid by you within 30 days from receipt of the billing. If the EVENT operations require substantial use of WSDOT labor and/or equipment and materials, (to be determined solely by WSDOT, whose determination shall be deemed conclusive), you shall post a payment bond.
5. You are responsible for cleaning up immediately after EVENT operations and returning any and all state highway facilities to the state or condition that existed prior to the EVENT.
6. Any base of operations, or storage or staging area for the EVENT shall be located outside the state's right of way. Prior authorization from WSDOT shall be required for any base of operations, storage or staging areas to be located within the right of way.
7. Information in attached EXHIBITS may identify existing regulatory prohibitions of specific types of traffic on limited access highways, such as the pedestrian prohibition on full access controlled highways.

Liability

1. EVENT COORDINATOR, at solely his or her expense, shall obtain and keep in force during the term of the EVENT, general liability insurance coverage in an amount no less than \$1 million per occurrence (combined single limit of liability) and \$2 million

in the aggregate providing bodily injury, property damage, and personal injury coverage for the state of Washington for any liabilities, including all costs of defense, arising out of the use of state highways for the EVENT. Said general liability coverage shall be written on an "occurrence" basis, not a "claims made" basis, and shall provide coverage no less than the coverage provided by a *Commercial General Liability Coverage Form (CG 00 01 07 98 ISO* or later). Said policy shall not be subject to any self-insured retained limit of liability, or endorsements that would limit the coverage provided by the original policy form, except to the extent that coverage is limited to claims arising from the EVENT. EVENT COORDINATOR, at his or her expense, shall obtain and keep in force during the term of the EVENT commercial automobile liability coverage in an amount no less than \$1 million per occurrence (combined single limit of liability) providing bodily injury and property damage coverage for the State of Washington as an additional insured under said policy. Said liability coverage shall provide coverage no less than the coverage provided by a *Commercial Automobile Liability Form (CA 00 01 07 97 ISO* or later). Said policy shall not be subject to any self-insured retained limit of liability, or any endorsement that would limit the coverage provided by the original policy form, except to the extent that coverage is limited to claims arising from the EVENT. An affidavit verifying proof of insurance reflecting the required coverage is required and must be in the possession of WSDOT and WSP prior to commencement of the event.

4. EVENT COORDINATOR shall indemnify and hold the state of Washington harmless against any and all claims or actions of any type of nature by third parties for injuries or property damage, including all costs of defense, caused by or arising out of the EVENT.

Venue

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties hereto agree that any such action or proceeding shall be brought in a court of competent jurisdiction situated in Thurston County, Washington, and EVENT COORDINATOR herein submits to jurisdiction thereunder.

Traffic Control

1. WSDOT has determined that a traffic control plan is necessary for this EVENT and shall be approved by the City of Black Diamond. Operational details specific to the EVENT shall be contained in the traffic control plan. All components of the traffic control plan shall conform to the standards of the Manual on Uniform Traffic Control Devices (MUTCD). In addition, traffic control plans shall meet the following requirements and restrictions:

- EVENT COORDINATOR is responsible for acquiring all traffic control devices, and shall have all traffic control devices installed per approved plan prior to commencement of the EVENT.
 - EVENT COORDINATOR will provide two PCMS (Portable Changeable Message) boards for placement starting Saturday, September 17th 2016. The PCMS are to be located on Northbound and Southbound SR 169 approximately one-half mile in advance of the EVENT entrance, as shown on the City of Black Diamond approved and provided Traffic Control Plan. The PCMS will be turned off immediately upon the EVENT's conclusion, and removed shortly thereafter. Each PCMS will read:
 - *One week prior and up to the day of the EVENT:*
Phase 1 (2 seconds) "EVENT TRAFFIC SEP 24-25"
Phase 2 (2 seconds) "XX AM to XX PM".
 - *Days of the EVENT:*
Phase 1 (2 seconds) "EVENT TRAFFIC AHEAD"
Phase 2 (2 seconds) "EXPECT DELAYS"
 - THERE SHALL BE NO ADVERTISING OF THE EVENT MESSAGING ON PCMS. MESSAGING APPROVED FOR TRAFFIC INFORMATION ONLY.
 - The PCMS must be removed at the event's conclusion on Sunday, September 25th 2016, or on Monday, September 26th 2016.
 - **Traffic control operations shall be performed by off-duty City of Black Diamond Police officers, and in accordance with the City of Black Diamond approved traffic control plan, and city permit.**
 - The EVENT COORDINATOR is required to comply with RCW 47.48.020. A copy of RCW 47.48.020 is attached. It may or may not contain current amendments.
2. EVENT COORDINATOR and WSDOT do agree that operational decisions and/or emergency situations may require road/lane closures to be opened immediately. WSP is responsible for traffic enforcement, and has final authority regarding the location and specific time of day that any road/lane closures, or any other part of the traffic control plan may be implemented. Neither WSDOT nor WSP shall be liable for any damages, or loss arising from the decision to reopen lanes during an event closure.

Please indicate your concurrence by countersigning and returning the enclosed copy of this **WSDOT Northwest Region Special Event Letter of Agreement # 16Jul817** to

the address or fax number provided below; failure to do so, or any alteration of this document will render this agreement invalid. If you have any questions or concerns, please contact Patricia Hardway at 206-440-4474.

Event Signature

WSDOT Signature

R. Pigozzi
SIGNATURE

Bonnie Nau
Bonnie Nau

Robyn Pigozzi
PRINTED NAME

Construction Traffic &
Central Operations Manager
WSDOT OFFICE TITLE

operations manager
TITLE AS OFFICE WITH (event name)

August 12, 2016
DATE

8/11/16
DATE

15700 Dayton Avenue North, MS 125
P.O. Box 330310
Seattle, Washington 98133-9710
ADDRESS

206 - 440 - 4804
FAX #

BN/pjh

Enclosures: Agreement;

Attachment

cc: Stephanie Porter/WSP
Barb Kincaid/City Blk. Diamond
Area 4 Maintenance
WSDOT NWR TMC Engineers
NW Construction
Juan Reyes
Deanna Brewer
WSDOT NW Region Event
Agreement #16Jul817;
2016 Tough Mudder Seattle

RCW 47.48.020

Notice of closure or restriction — Emergency closure.

Before any state highway, county road, or city street is closed to, or the maximum speed limit thereon reduced for, all vehicles or any class of vehicles, a notice thereof including the effective date shall be published in one issue of a newspaper of general circulation in the county or city or town in which such state highway, county road, or city street or any portion thereof to be closed is located; and a like notice shall be posted on or prior to the date of publication of such notice in a conspicuous place at each end of the state highway, county road, or city street or portion thereof to be closed or restricted: PROVIDED, That no such state highway, county road, or city street or portion thereof may be closed sooner than three days after the publication and the posting of the notice herein provided for: PROVIDED, HOWEVER, That in cases of emergency or conditions in which the maximum time the closure will be in effect is twelve hours or less the proper officers may, without publication or delay, close state highways, county roads, and city streets temporarily by posting notices at each end of the closed portion thereof and at all intersecting state highways if the closing be of a portion of a state highway, at all intersecting state highways and county roads if the closing be a portion of a county road, and at all intersecting city streets if the closing be of a city street. In all emergency cases or conditions in which the maximum time the closure will be in effect is twelve hours or less, as herein provided, the orders of the proper authorities shall be immediately effective.

[1982 c 145 § 5; 1977 ex.s. c 216 § 2; 1961 c 13 § 47.48.020. Prior: 1937 c 53 § 66, part; RRS § 6400-66, part; prior: 1921 c 21 § 2, part; RRS § 6840, part. Formerly RCW 47.48.020 and 47.48.030.]

TOUGH MUDDER SEATTLE 2016 - TRAFFIC PLAN & LOT OVERVIEW

LOCATION: 31407 Hwy 169, Black Diamond, WA 98010



Key

- City Police
- Base Area
- Traffic Flow
- No Entrance
- CARS STOP
- No Through Traffic

POLICE LOCATIONS:

SATURDAY

- Highway 169 entrance: [1] 6am - 6pm
- Lake Sawyer Rd. entrance: [1] 6am - 6pm & [1] 11am - 6pm
- SR 169 and Roberts DR.: [1] 6am - 6pm
- Lake Sawyer Rd/Roberts DR : [1] 6am - 6pm
- Floater: [1] 6am - 6pm

SUNDAY

- Highway 169 entrance: [1] 7am - 4pm
- Lake Sawyer Rd. entrance: [1] 7am - 4pm & [1] 12pm - 4pm
- SR 169 and Roberts DR.: [1] 7am - 4pm
- Lake Sawyer Rd/Roberts DR : [1] 7am - 4pm
- Floater: [1] 6am - 6pm

HSBC BANK USA
BROOKLYN, NY 11201



Tough Mudder Events Production Incorporated
15 Metrotech Center
7th Floor
Brooklyn, NY 11201

CHECK # 801278
DATE 08/11/2016

*****\$12,180.00

PAY Twelve Thousand One Hundred Eighty and 00/100----- USD

PAY TO THE ORDER OF
City of Black Diamond
PO Box 599
Black Diamond, WA 98010

Authorized Signature

⑆801278⑆ ⑆021001088⑆ ⑆660877651⑆

Security features. Details on back.

COMMUNITY DEVELOP.

AUG 18 2016
RECEIVED



CITY OF BLACK DIAMOND

COMMUNITY DEVELOPMENT DEPT
 PO BOX 599
 BLACK DIAMOND, WA 98010

INVOICE

Bill To
 Tough Mudder Inc.
 15 Metrotech Center, 7th Floor
 Brooklyn, NY 11201
 Atten: Hilary May

Date: August 1st, 2016
Invoice #: SEP16-0014

Description	Qty	Rate	Amount
2016 Tough Mudder Special Event Permit Deposit			\$12,080.00
2016 Tough Mudder Application Fee			\$100.00
See attached supplemental information. Please contact Sandy Wirth at 360-886-5718 for questions.			
	Total		\$12,180.00
Balance Due		\$12,180.00	



CITY OF BLACK DIAMOND

COMMUNITY DEVELOPMENT DEPT
 PO BOX 599
 BLACK DIAMOND, WA 98010

INVOICE

Bill To
 Tough Mudder Inc.
 15 Metrotech Center, 7th Floor
 Brooklyn, NY 11201
 Atten: Blake Zink

Date: September 28th, 2015
Invoice #: SEP15-0008

Description	Qty	Rate	Amount
Tough Mudder Special Event Permit Deposit, SEP15-0008			
Police Estimated Fee	116	\$85.00	\$9,860.00
Estimated City Staff Time	8.75	Various	\$608.00
8/24/15 Mudder Deposit			(\$12,080.00)
See attached supplemental information. Please contact Sandy Wirth at 360-886-5718 for questions.			
Total			(\$1,612.00)
Payments/Credits			(\$1,612.00)
Balance Due			-0-

TOUGH MUDDER 2015 - STAFF TIME BILLABLE HOURS

STAFF	TITLE	HOURS	RATE	TOTAL
B. Kincaid	Community Development Director	2	\$81.00	\$162.00
A. Willimanson	Economic Development Director	2	\$78.00	\$156.00
A. Campbell	Consultant Senior Planner	0.75	\$100.00	\$75.00
D. Dal Santo	Utility Superintendent	1	\$76.00	\$76.00
R. Young	Fire Marshal	1	\$45.00	\$45.00
S. Wirth	Permit Technician	2	\$47.00	\$94.00
	Grand Total	8.75		\$608.00

City of Black Diamond

PO BOX 309
25510 Lawson Street
Black Diamond, WA 98010

Phone: 253-631-1012
Fax: 360-886-2901
BDPD Contact Person:
Chief Jamey Kiblinger

Federal Tax ID #916016204

DATE: 9/25/2015

Bill To:

Tough Mudder
C/O Blake Zink
15 Metrotech Center 7th Floor
Brooklyn, NY 11201

FOR:

Supplemental Police Services
BILLING FOR:

Police Services

DESCRIPTION	DATE	OFFICER	HOURS	RATE	AMOUNT
Tough Mudder	Sept 19th /20th	BDPD	116.0	\$85.00	\$9,860.00
			Total		\$9,860.00

Attn: Accounts Payable



CITY OF BLACK DIAMOND
Service Agreement

COMMUNITY DEVELOP.

AUG 01 2016

RECEIVED

City Assistance required from (department):

Police Department

Organization/Person requesting Assistance:

Tough Mudder- Robyn Pigozzi

Event:

Tough Mudder-10-12 mile obstacle course

Date:

September 24-25th, 2016

Please describe the event and what services will be needed:

Traffic control will be provided for the event as outlined below:

Saturday-

SR 169 entrance- 1 officer 5:30am to 6 pm (12.5 hours)
Lake Sawyer Rd entrance – 1 officer 5:30 am to 6 pm, 1 officer 11am to 6 pm (18.5 hours)
SR 169 and Roberts DR – 1 officer 5:30 am to 6 pm (12.5 hours)
Lake Sawyer Rd/Roberts DR – 1 officer 5:30 am to 6 pm (12.5 hours)
Floater- 1 officer 5:30 am to 6 pm (12.5 hours)

68.5 total hours at \$85.00 = \$5822.50

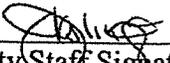
Sunday-

SR 169 entrance- 1 officer 6:30 am to 4 pm (9.5 hours)
Lake Sawyer Rd. entrance – 1 officer 6:30 am to 4 pm, 1 officer 12 pm to 4 pm (13.5 hours)
SR 169 and Roberts DR- 1 officer 6:30 am to 4pm (9.5 hours)
Lake Sawyer Rd/Roberts Dr- 1 officer 6:30am to 4pm (9.5 hours)
Floater- 1 officer 6:30am to 4pm (9.5 hours)

51.5 total hours at \$85.00 = \$4377.50

Total Cost = \$10,200.00

The City of Black Diamond agrees to provide these services on the requested date(s). The City of Black Diamond will bill for all services on an hourly basis per the adopted fee schedule. Per contract many city services require a 3 hour minimum billing.

 - Chief of Police City Staff Signature, Title	7/29/16 Date
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_____ agrees to pay for the services the City of Black Diamond is providing.

Applicant Signature, Title	Date
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PERMIT# SEP16-0014

EVENT INFORMATION

EVENT NAME: Tough Mudder Seattle 2016
EVENT LOCATION: Palmer Cooking and Coal 3140 3rd Ave
(If structures will be erected and/or street ROW used, please attach (3) drawings noting locations and dimensions.)

EVENT TYPE: Exhibition Protest Run/Walk Dance Festival Concert Party
(Check all that apply) Wedding Drama Parade Other Mud Run

DATE OF EVENT: 9-24-16 - 9-25-16 HOURS: 7:00AM - 7:00PM

PURPOSE OF EVENT: Obstacle course mud run

EST. ATTENDANCE: Participants 7,100 Spectators 1,500 Volunteers/Personnel 300
CITY BUS. LICENSE #: N/A *(participating commercial vendors will also require a City license)*

PARKING PLANS: see attached
(Please provide a drawing unless you are using an existing parking lot with sufficient stalls.)

FACILITIES TO BE USED: City Park Lake Sawyer Sidewalk Street Private Property
(If using private property, you must provide proof that you have permission unless you are the owner.)

CITY ASSISTANCE REQUIRED: Police Fire Public Works Other _____

Describe: _____
(Police and Fire services require a written agreement that must be submitted with the event application.)

INSURANCE COMPANY: BWD Sports and Entertainment, COI attached
(Proof of Ins. required naming City of Black Diamond as co-insured if event is taking place on City property.)

FOOD TO BE SERVED: YES NO If yes, provide copy of Health Dept approval/license.

SOUND SYSTEM: YES NO
(If liquor and music are provided a Cabaret license may be required.)

SANITATION PLANS (Sani-cans, hand washing stations, etc): portable toilets with hand sanitizer

PRODUCTS OR SERVICES TO BE SOLD: YES NO If yes, what? merchandise, beer, food

ADMISSION FEE: YES NO If yes, how much? \$220 - participants, \$20 spectators

HAS THE EVENT BEEN PREVIOUSLY PRODUCED? YES NO PREVIOUS DATE: 9/19/15

ANY CHANGES FROM PREVIOUS EVENT? YES NO If yes, list changes:

No major changes from previous years.

APPLICANT INFORMATION

APPLICANT: Rodny Pigozzi ORGANIZATION: Tough Mudder Inc.

MAILING ADDRESS: 15 MetroTech Center Brooklyn, NY 11201

CONTACT PHONE: 407-619-2609 FAX 347-227-0220

EMAIL ADDRESS: Robyn.pigozzi@toughmudder.com

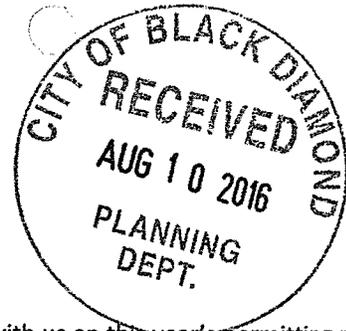
EMERGENCY CONTACT Courtney Ellis PHONE 203-856-8228

Robyn Pigozzi
SIGNATURE OF APPLICANT DATE 7/29/10

Additional information or requirements may be requested. Please allow 3-4 weeks for processing.



July 29, 2016



To whom it may concern:

Thank you in advance for your continued support of our event and for working with us on this year's permitting process. We are very excited to be bringing Tough Mudder back to Black Diamond at PCCC on Saturday September 24th and Sunday September 25th, 2016.

We are writing to apply for the Special event permit to be approved by City Council. As part of our submission, first please see attached for the following:

- Event Operating Plan
- Traffic & Parking Operations Plan
- Permit Submission

Second, we are still waiting on a few documents from our internal teams that we will have to you by end of week (if not earlier):

- COI adding City of Black Diamond as additionally insured: *is there a specific address or conditions you would like included on this COI?*
- Application Fee – *can you confirm the amount due?*

Third, there are some additional documents that will be completed and sent no later than 1 month prior to the event (August 24, 2016):

- Incident Action Plan
- Final Tent Map
- Copy of Liquor Permit
- Any other items required per council approve conditions

Lastly, we understand that two weeks prior to the event we must notify adjacent property owners within 300 feet of the event and give notice in local papers. If there is any information you need from us on this, please let us know.

Let me know if there is anything else you need at this time or if you have any questions on the attached documents. Thank you in advance for your time and consideration and we look forward to hearing back from you.

Sincerely,

Robyn Pigozzi

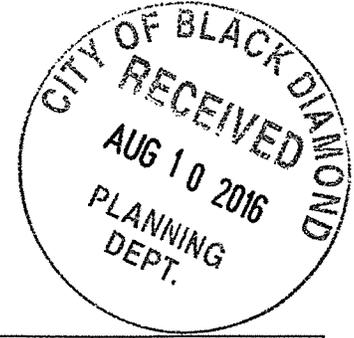
Operations Manager | Tough Mudder, Inc.

15 Metrotech Center, 7th Floor, Brooklyn NY 11201

Cell: 407-619-2609 | Email: robyn.pigozzi@toughmudder.com



CITY OF BLACK DIAMOND
Service Agreement



City Assistance required from (department):

Police Department

Organization/Person requesting Assistance:

Tough Mudder- Robyn Pigozzi

Event:

Tough Mudder-10-12 mile obstacle course

Date:

September 24-25th, 2016

Please describe the event and what services will be needed:

Traffic control will be provided for the event as outlined below:

Saturday-

SR 169 entrance- 1 officer 5:30am to 6 pm (12.5 hours)
Lake Sawyer Rd entrance – 1 officer 5:30 am to 6 pm, 1 officer 11 am to 6 pm (18.5 hours)
SR 169 and Roberts DR – 1 officer 5:30 am to 6 pm (12.5 hours)
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Floater- 1 officer 5:30 am to 6 pm (12.5 hours)

68.5 total hours at \$85.00 = \$5822.50

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SR 169 entrance- 1 officer 6:30 am to 4 pm (9.5 hours)
Lake Sawyer Rd. entrance – 1 officer 6:30 am to 4 pm, 1 officer 12 pm to 4 pm (13.5 hours)
SR 169 and Roberts DR- 1 officer 6:30 am to 4pm (9.5 hours)
Lake Sawyer Rd/Roberts Dr- 1 officer 6:30am to 4pm (9.5 hours)
Floater- 1 officer 6:30am to 4pm (9.5 hours)

51.5 total hours at \$85.00 = \$4377.50

Total Cost = \$10,200.00

The City of Black Diamond agrees to provide these services on the requested date(s). The City of Black Diamond will bill for all services on an hourly basis per the adopted fee schedule. Per contract many city services require a 3 hour minimum billing.

[Signature] - Chief of Police City Staff Signature, Title	7/29/16 Date
--------------------------------------------------------------	-----------------

_____ agrees to pay for the services the City of Black Diamond is providing.

Applicant Signature, Title	Date
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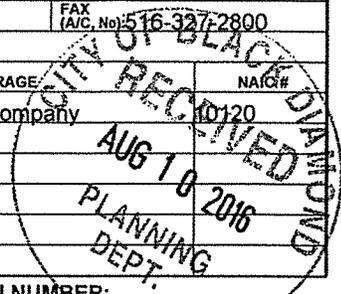
CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/29/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER BWD Sports and Entertainment LLC 45 Executive Drive Plainview NY 11803-9001	CONTACT NAME: PHONE (A/C, No. Ext): 516-327-2700 FAX (A/C, No.): 516-327-2800 E-MAIL ADDRESS:
	INSURER(S) AFFORDING COVERAGE INSURER A : Everest National Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
INSURED Tough Mudder Inc. 15 MetroTech Center, 7th Floor Brooklyn NY 11201	TOUGMUDD NAIC# 10120



COVERAGES **CERTIFICATE NUMBER: 270213632** **REVISION NUMBER:**

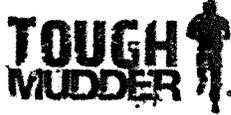
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	Y		SI8ML00448151	12/31/2015	12/31/2016	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
							MED EXP (Any one person)	\$N/A
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
								\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				WC STATUTORY LIMITS	OTHER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

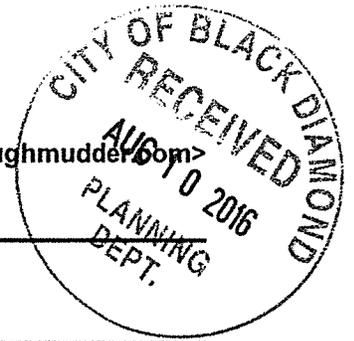
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Black Diamond is included as an additional insured in connection with Tough Mudder Seattle events on September 24 & 25, 2016.

CERTIFICATE HOLDER City of Black Diamond 24301 Roberts Drive PO Box 599 Black Diamond WA 98010	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
-------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



Robyn Pigozzi <robyn.pigozzi@toughmudder.com>



Re: Letter of Approval - Tough Mudder - Sept. 24-25, 2016

1 message

Palmercokingcoal@aol.com <Palmercokingcoal@aol.com>

Fri, Jul 29, 2016 at
3:59 PM

To: robyn.pigozzi@toughmudder.com

TO WHOM IT MAY CONCERN:

Please be advised that Palmer Coking Coal Company, LLP (Palmer) is the owner of over 400-acres of property located in Sections 10 & 11, Township 21 North, Range 6 East, at a street address of 31407 Highway 169, Black Diamond, WA 98010.

Since 2011, Palmer has leased this property to Tough Mudder for conduct of there annual endurance event. For 2016, Tough Mudder again has a lease with Palmer for conduct of an event scheduled for Sept. 24-25, 2016.

Very Truly Yours,

Bill

**William Kombol, Manager
Palmer Coking Coal Company, LLP
P.O. Box 10 / 31407 Highway 169
Black Diamond, WA 98010-0010**

telephone: 425-432-4700

telephone: 360-886-2841

fax: 425-432-3883

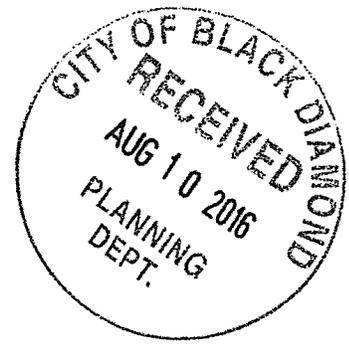
website: palmercc.com Click here: Palmer Coking Coal Co. - Home Page

e-mail: palmercokingcoal@aol.com

TOUGH MUDDER SEATTLE 2016

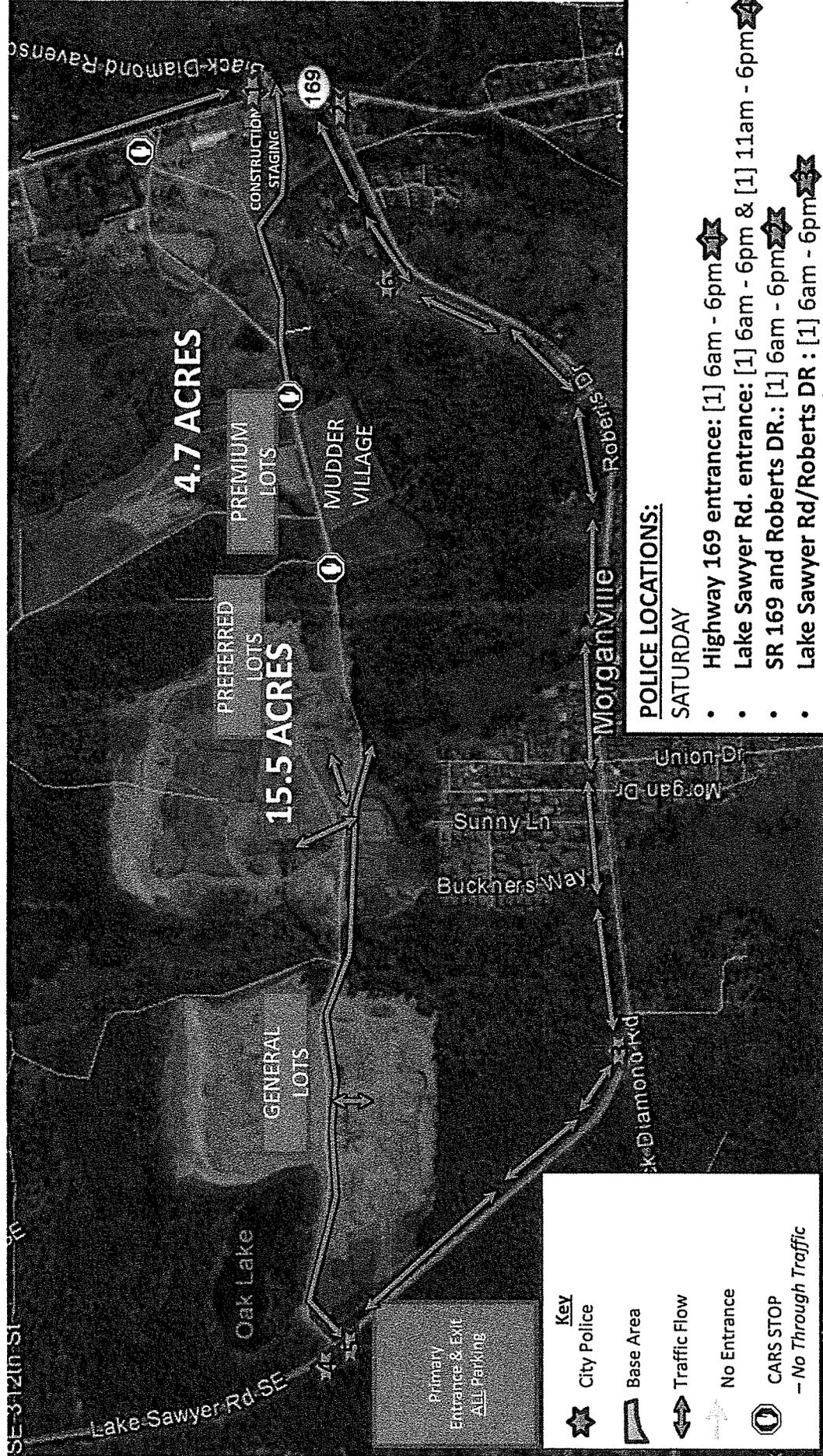
Event Address: 31407 Hwy 169, Black Diamond, WA 98010

TM Weekend Seattle	Saturday	Sunday
Participants	6,129	1,000
Start Waves	8:00 AM – 2:00 PM	9:00 AM – 10:00 AM
Cars Expected	2,188 cars (364/ hr.)	357 cars
Lots	General (presale or cash + volunteers) Preferred (presale only) Premium (presale only + handicap)	General (presale or cash + volunteers) Preferred (presale only) Premium (presale only + handicap)



TOUGH MUDDER SEATTLE 2016 - TRAFFIC PLAN & LOT OVERVIEW

LOCATION: 31407 Hwy 169, Black Diamond, WA 98010



Key

- City Police
- Base Area
- Traffic Flow
- No Entrance
- CARS STOP
- No Through Traffic

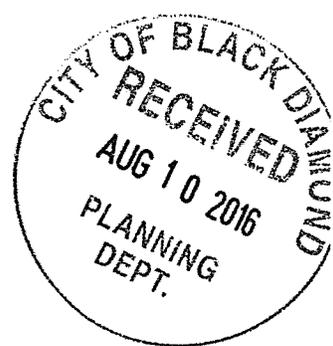
POLICE LOCATIONS:

SATURDAY

- Highway 169 entrance: [1] 6am - 6pm
- Lake Sawyer Rd. entrance: [1] 6am - 6pm & [1] 11am - 6pm
- SR 169 and Roberts DR.: [1] 6am - 6pm
- Lake Sawyer Rd/Roberts DR : [1] 6am - 6pm
- Floater: [1] 6am - 6pm

SUNDAY

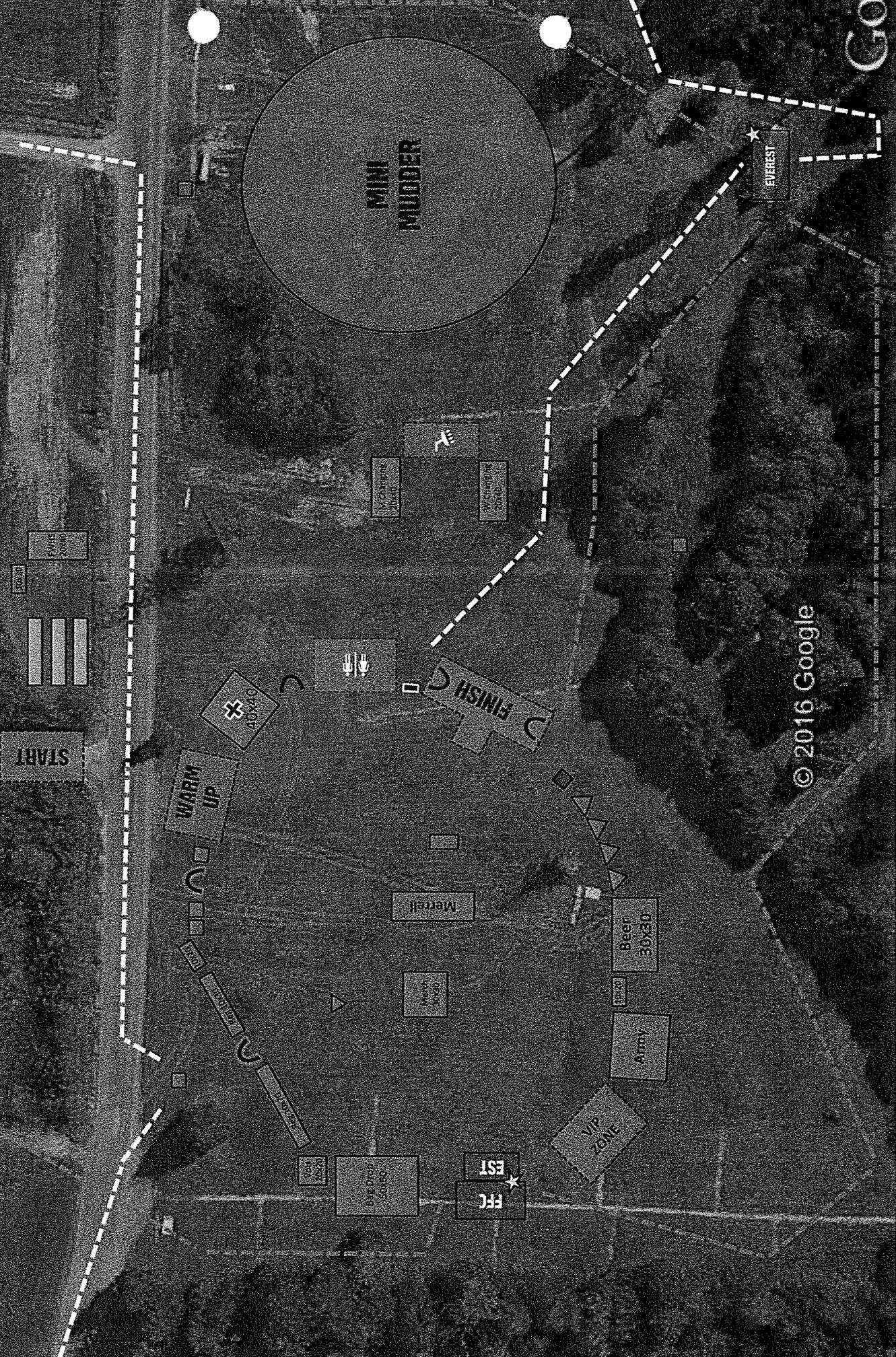
- Highway 169 entrance: [1] 7am - 4pm
- Lake Sawyer Rd. entrance: [1] 7am - 4pm & [1] 12pm - 4pm
- SR 169 and Roberts DR.: [1] 7am - 4pm
- Lake Sawyer Rd/Roberts DR : [1] 7am - 4pm
- Floater: [1] 6am - 6pm



TOUGH MUDDER SEATTLE SEPTEMBER 24 - 25, 2016

← General Parking

Premium Parking



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GO



Review Process Status Report

Permit: SEP16-0014

1010 - Planning Review Complete? Y

08/10/2016 By: ACAMPBELL Minutes: 30 Original Due Date: 08/19/2016 Action: CMP Y

A request for signage per BDMC 18.82.060.E temporary event signs has been submitted. The code section is as follows:

E. Public Service/Civic Event Signs. Signs advertising community events or public issues may be permitted to locate in or over public right-of-ways. If located within the public right-of-way, such signs shall not be permitted to advertise or promote any business or the sale of any product or commodity. Banners shall only be suspended over public rights-of-way at locations approved by the public works director.

Maximum duration for the temporary signs shall be from one month before the event and they must be removed within five days after the event. The signs shall be removed by the promoters of the event, or the City will remove such signs at the promoter's expense.

If any signs are located outside of the City limits of Black Diamond, the applicant must check the regulations of temporary signs with the appropriate jurisdiction.

Total Time: 30

1030 - Building Review Complete? Y

08/11/2016 By: WHILL Minutes: 0 Original Due Date: 08/19/2016 Action: CMP Y

NO comments or concerns from building department. Fire may have comments

Total Time: 0

1050 - Public Works Review Complete? Y

08/24/2016 By: SBOETTCHEER Minutes: 30 Original Due Date: 08/19/2016 Action: CMP Y

This event is approved provided that Tuff Mudder provide Public Works with a minimum of 2 weeks notice if they want a 2 inch fire hydrant meter.

Total Time: 30

1060 - Fire Review **Complete? Y**

08/17/2016 By: RYOUNG Minutes: 60 Original Due Date: 08/19/2016 Action: CMP Y

1. *Fire Department Access to the site: Traffic and back up of vehicles must not hinder fire department access. A min. 20 foot wide dedicated fire department access must be maintained into the site at all times.*
2. *An additional engine company and crew of three (Officer/Firefighters) will be required to be paid for by Tough Mudder to provide for protection to the community during this event to avoid traffic delays and potential additional service demands associated with the large number of individuals entering the community. (This requirement is ONLY for SATURDAYS event).*
3. *Inspections/Plans for Tents & Stages: Any portable stage that will be used during this event must have had plans and design including wind loads submitted and reviewed by the Fire Marshal prior to the event. Tents(700 sq. feet and larger) that have 3 sides will be required to have plans submitted prior to the event that show exiting from the tent reviewed and approved by the Fire Marshal.*

All tents/membrane structures with 3 sides or more must have EXIT signs posted and have exits meeting the requirements of the IFC. NO SMOKING signs must be posted in all tents/membrane structures. No cooking or open flames will be allowed in any tent/membrane structure that the public can enter. Mobile cooking facilities must meet the IFC requirements for fire suppression systems and proper portable fire extinguishers. (Class K extinguishers will be needed for cooking areas in addition to the standard ABC fire extinguisher). A minimum 2A 10BC fire extinguisher must be located within 75 feet travel distance of all of the main camp area (tents/membrane structures). These fire extinguishers must be visible and accessible at all times
4. *Event Staff (crowd management) will be required as per Chapter 4 of the IFC for public events. Numbers of event staff will need to meet the numbers required by the IFC, training of these members must be adequate for the purpose they will be serving, and they must have the means, ability and knowledge of how to summon emergency aid as is needed during the event.*
5. *The Command Post location for the Event Overhead Staff must be clearly identified to allow for rapid identification and access by the fire department in the event of an emergency.*
6. *No Open Flames of any kind (other than in cooking appliances) will be allowed without specific permitting by the fire department. This includes the use of any fire or flame props for the event course or camp fires.*
- 7., *Site inspection will be required prior to and during this event. The event staff must contact the fire marshal to arrange these inspections prior to the event.*

Total Time: 60

1070 - Police Review **Complete? Y**

08/11/2016 By: JKIBLINGER Minutes: 60 Original Due Date: 08/19/2016 Action: CMP Y

See attached signed service agreement for dates, times, and locations of traffic control to be provided during event.

Total Time: 60

1190 - Permit Tech Review **Assigned: SWIRTH - 8/22/2016 Complete? N**

Total Time: 0

1200 - Administration Review **Assigned: AWILLIAMSON - 8/22/2016 Complete? N**

Total Time: 0

1210 - Economic Development Review **Complete? Y**

08/24/2016 By: AWILLIAMSON Minutes: 15 Original Due Date: 08/19/2016 Action: CMP Y

Total Time: 15

Total Reviews: 8

Total Time: 195



Tough Mudder Seattle 2016

16.09.24.WA

Event Operating Plan

Palmer Coking Coal Company

Saturday, September 24-
Sunday, September 25, 2016

Recipients shall hold and treat the Confidential Information in strict confidence and shall not, without the prior written consent of the Tough Mudder INC, disclose or permit disclosure of Confidential Information by their Representatives. Recipients agree not to use or derive benefit from the Confidential Information in any manner whatsoever, in whole or in part, other than in connection with the Transaction. Moreover, Recipients agree to disclose Confidential Information only to those Representatives who have a need to know the Confidential Information in order to assist in evaluating a possible Transaction, and who are informed of the strictly confidential nature of the Confidential Information. Recipients shall be responsible for any breach of this Agreement by their Representatives.

Tough Mudder Seattle 2016 Operating Plan

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Tough Mudder Seattle 2016 Operating Plan

INTRODUCTION

Tough Mudder is the premier adventure challenge series in the world. Tough Mudder events are hardcore 10-12 mile obstacle courses designed by British Special Forces to test participants' all around strength, stamina, mental grit, and camaraderie.

Tough Mudder events have been running since 2010. In 2016 Tough Mudder will hold approximately 50 events throughout United States, Canada, the United Kingdom and Australia. Tough Mudder events are staged on a diverse range of sites. Events are held on weekends, and each event consists of a Saturday and Sunday challenge. Typically between 5,000 and 15,000 participants from all walks of life take part on each event day.

Each event is carefully planned and delivered by a Tough Mudder Event Team consisting of individuals with a wealth of experience running large scale events.

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Tough Mudder Seattle 2016 Operating Plan

PURPOSE OF EVENT OPERATIONS PLAN

The purpose of this document is to provide the Tough Mudder Event Team and other event stakeholders with an overview of operations for the Seattle 2016 event to be held on **Saturday, September 24, 2016 – Sunday September 25, 2016**. It is intended to clearly outline the key components of event operations, and how the venue will be managed throughout the event.

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Tough Mudder Seattle 2016 Operating Plan

EVENT SUMMARY

The following table provides a summary of the Seattle 2016 event:

Event Name	Seattle 2016
Event Date	Saturday, September 24, 2016 – Sunday September 25, 2016
Venue Name	Palmer Coking Coal Company, 31407 Highway 169, Black Diamond, WA 98010
Anticipated number of Starters on Saturday	4,492
Anticipated number of Spectators on Saturday	1096
Anticipated Total Bodies on Site Saturday	5588
Anticipated number of Starters on Sunday	899
Anticipated number of Spectators on Sunday	220
Anticipated Total Bodies on Site Sunday	1119
Challenge Start Times	8:00 AM Saturday 9:00 AM Sunday
Approval Authorities	<ol style="list-style-type: none"> 1. City of Black Diamond (Special Event Permit) 2. King County Department of Public Health (Temporary Food Event – Coordinator’s Checklist) 3. King County Department of Public Health (Temporary Food Service Application (for each food vendor) 4. Washington State Liquor Control Board (Special Occasion License for a Nonprofit Society or Organization) 5. Washington State Department of Transportation
Relevant Event Permits	<ol style="list-style-type: none"> 1. Special Event Permit 2. Temporary Food Service Permit 3. Liquor Permit

Further details about the event are available upon request in the following documents:

- *Participant Start Lists (Saturday and Sunday);*
- *Event Permits (to be acquired)*

Tough Mudder Seattle 2016 Operating Plan

VENUE SUMMARY

The following table provides a summary of the Venue for Seattle 2016.

Venue Name	Palmer Coking Coal Company
Venue Address	31407 Highway 169, Black Diamond, WA 98010
No. of previous Tough Mudder events held at this Venue	4 – 2012-2015
Size of Event Site	~600 acres
Period of Venue Hire	5 year option
Name of Primary Venue Contact	Bill Kombol
Contact Details of Primary Venue Contact	(425) 432-4700 Palmercokingcoal@aol.com
Number of existing venue buildings being used for event	0
Distance from nearest population center	7.7 miles (12 minutes) to Enumclaw, WA 13.8 miles (24 minutes) to Auburn, WA 28 miles (38 minutes) to Tacoma, WA 32.9 miles (45 minutes) to Seattle, WA 270 kilometers (3 hours) to Vancouver, BC, Canada

Further details about the venue are available in the following documents:

- *Venue Use Agreement* (confidential)
- *Mudder Village Map* (attached appendix)

Tough Mudder Seattle 2016 Operating Plan

PHASES OF OPERATION

The following table provides a summary of the phases of operation for Seattle 2016:

Event Phase	Description	Dates
Initial Site Visits and Course Design	Period during which planning visits to site occur; General Manager, Operations Manager, Field of Play Supervisor, Front of House Supervisor, and Construction Manager meet with relevant stakeholders, and finalize all plans	June 2016
Course Construction	Period during which on-site construction occurs	Timeline TBD with venue owner and Construction Manager
Load-In	Period during which temporary infrastructure is installed and equipment/product is delivered to site	Monday, September 19 – Monday, September 26, 2016
Event Operations	Period of event (participants and spectators on-site)	Saturday, September 24, 2016 7 AM – 6 PM & Sunday, September 25, 2016 8 AM – 6 PM
Load-Out	Period during which temporary infrastructure is removed and equipment/product is collected	Monday, September 26 – Friday September 30, 2016
Site Restoration	Period during which site restoration/remediation work is carried out	Timeline TBD with venue owner and Construction Manager

Further details about the phases of operation will be made available upon request:

- *Planning Meeting Agenda;*
- *Construction Schedule;*
- *Master Delivery Schedule;*
- *Event Timeline;*
- *Site Restoration Schedule*

Tough Mudder Seattle 2016 Operating Plan

EVENT STAKEHOLDERS

The following table provides a summary of key stakeholders involved in Seattle 2016:

Stakeholder	Description
Event Participants	Tough Mudder events are all about the participants. Participants with varying levels of ability, from all walks of life, and from all age groups (above 18) are taking part in the event.
Spectators	Tough Mudder welcomes the friends and family of Participants. Spectators are able to access the course to cheer on and take photos of Participants.
Workforce	A team of Tough Mudder employees, contract Event Staff and Volunteers are together responsible for running the event and ensuring a safe and memorable experience for Participants, Spectators and other event stakeholders.
Partners (Sponsors)	A number of Official Tough Mudder Partners will be present in the 'Mudder Village' to provide goodies to Participants and Spectators. Partner Support is key to the success of all Tough Mudder events.
Vendors (Contractors and Suppliers)	A range of Vendors (contractors and suppliers) provide services and/or equipment which are crucial to the event, including construction services, power, audio equipment, water, food and beverages and utility terrain vehicles (UTVs).
Venue Staff	Venue Staff knows the venue better than anyone, and the Tough Mudder Event Team will work closely with Venue Staff in order to deliver a safe event.
Emergency Services Providers	Tough Mudder has established relationships with the Police, Fire Department and Ambulance Services to ensure they are supportive of the event and have resources available to respond to any incident if/when required to do so.
Local Traffic Authority	Tough Mudder will work with the Local Police Department, traffic authorities, and the venue to approve traffic management plans. Tough Mudder will also work with the local police department to ensure approval of plans.
Community Groups	Tough Mudder will continue to work with local CVB, COC, and a range of other Community Groups with a view to maximizing the benefits flowing from the event to the local community.
Community Visitor's Bureau	Tough Mudder will continue to engage with local businesses and a range of other Community Groups with a view to maximizing the benefits flowing from the event to the local community. The relationship with the Community Visitor's Bureau is very important to Tough Mudder.

Tough Mudder Seattle 2016 Operating Plan

COMMAND, CONTROL AND COMMUNICATION

Well established and tested command, control and communication structures are being implemented to ensure that Tough Mudder Seattle 2016 runs smoothly, and that any issues and/or incidents which do arise can be dealt with efficiently and effectively.

- Tough Mudder Seattle 2016 will be delivered by an integrated event team, led by the Event Director. Key event operations roles have been identified and will be filled by experienced individuals. Position Descriptions for these roles clearly outline responsibilities and reporting channels. A similar staffing model has been used successfully at many previous Tough Mudder events.
- Tough Mudder follows the Incident Command System (ICS): a systematic tool used for the command, control, and coordination of emergency responses. In accordance with the ICS, Tough Mudder creates an Incident Action Plan (IAP) to ensure everyone is working in concert toward the same goals set for the event.
- A comprehensive contact list containing contact details for all event staff, stakeholders and emergency service providers has been compiled and distributed to the event team, and will be available in the Event Command Center (ECC) for the duration of the event.
- An organizational chart has been produced for the event, clearly identifying the chain-of-command amongst core members of the Event Team; this organizational chart also serves to illustrate Tough Mudder's communication structure, identifying the various radio channels that will be used during the event, and the roles/individuals using each channel. Protocols on the use of radios have been developed and staff has been trained on these protocols.
- An Event Command Center will be established and will operate for the duration of the event. The Command Center will be managed by 'Control', a role responsible for monitoring radio channels and disseminating information to relevant parties. Control will have the capability to contact key members of the event team, including the General Manager & Event Director, as well as the event's medical providers and other emergency services providers at any time.
- Details of all major issues and incidents that occur on site during the event will be logged in the Event Command Center, ensuring an accurate record exists of issues/incidents and response measures;
- A member of Tough Mudder's operations executives will be on-duty at all times during the event (potentially off-site), and will be available to assist in arranging additional support for and providing guidance to the General Manager if required.

Further details about specific arrangements for Tough Mudder Seattle 2016 can be found in the following document (example from past event available upon request):

- ***Incident Action Plan (which includes Organizational Chart, Key Contact List, medical plans)***

Tough Mudder Seattle 2016 Operating Plan

EVENT WORKFORCE

The Event Team for Tough Mudder Seattle 2016 consists of Tough Mudder employees, contracted staff and Volunteers, all serving as one team to deliver the event safely and as efficiently as possible.

The following table provides a summary of Workforce numbers for Tough Mudder Seattle 2016:

<u>Type</u>	<u>Number</u>
Tough Mudder Staff	6 Tough Mudder Lead Team 2 Tough Mudder Support (B Team) Employees
Contract Event Staff	~7 Event Contractors will be used for Event Staff Management ~Depending on final volunteer numbers, event staff will also be contracted to supplement volunteer positions
Contract Manual Labor	~10 construction staff ~3 local staff used for Event Week Setup (course & base area)
Contract Security Staff	~3 Security Staff
Contract Parking Staff	~12 Parking Staff, ~1 Road Master
Contract Waste Management	~15 waste management contracted on site during event weekend and for post event clean up
Volunteers	~250 volunteers each day will staff event areas such as registration, bag drop, finish line, people movers, and obstacles.

- All Workforce are required to sign-in and out at the start and end of each shift;
- All Workforce are required to wear uniforms, which are provided by Tough Mudder (with the exception of contractors, who wear their own uniforms). Appropriate protective clothing/sunscreen is provided where necessary;
- All Workforce have access to water and a meal during their shift;
- All Workforce are properly briefed before being deployed to their work location;
- All Workforce have a Manager to whom they report and from whom they can seek assistance if required;
- All Workforce are briefed on the importance of customer service.

Further details about staffing arrangements for Tough Mudder Seattle 2016 can be found in the following document:

- ***Comprehensive Staffing Plan***

Tough Mudder Seattle 2016 Operating Plan

TRANSPORTATION, TRAFFIC MANAGEMENT AND PARKING

The means by which participants, spectators and staff travel to and from the venue is a key element of planning for all Tough Mudder events.

A comprehensive Transportation, Traffic Management and Parking Plan has been developed for Tough Mudder Seattle 2016, addressing on-site parking, the flow of vehicles into and out of the venue, required signage and traffic management infrastructure (eg. barricades, cones, variable message boards), the resilience of parking areas (eg. if there is heavy rain), traffic management and parking staffing requirements, and liaison with the local traffic management authority.

The following table provides a summary of the transportation, traffic management and parking information for Tough Mudder Seattle 2016:

Key population centers from which people will be travelling to the venue	Washington State – Seattle, Tacoma Canada - Vancouver
Key routes between population centers and the venue	<p><u>From NORTH (Seattle, WA – 70%):</u> I-5 S to WA-169 S</p> <ul style="list-style-type: none"> Right turn onto Roberts Drive & right turn onto Lake Sawyer Road for Premium/Preferred/General Parking(right turn into venue) <p><u>From WEST (Tacoma, Auburn – 15%):</u> I-5 N to WA-18 E to Auburn-Black Diamond Rd</p> <ul style="list-style-type: none"> left turn onto Lake Sawyer Rd for Premium/Preferred/General Parking (right turn to venue) <p><u>From SOUTH (Enumclaw – 6%):</u> Highway 169 N</p> <ul style="list-style-type: none"> Right turn onto Roberts Drive & right turn onto Lake Sawyer Road for Premium/Preferred/General Parking(right turn into venue)
Number of Parking Areas at/near the venue	<p>All parking is on site, but will be tiered to 3 parking lots:</p> <ul style="list-style-type: none"> ALL PARKING is onsite within no more than a 1 mile walk to the Mudder Village ALL cars will park in Premium/Preferred/General parking and take the entrance off Lake Sawyer road.
Total Number of Parking Spaces at/near the venue	<ul style="list-style-type: none"> - On Saturday, an estimated 400 Premium Spaces & 1300 General/Preferred spaces are predicted to be used to accommodate predicted sales numbers. - An additional 500+ spots will be available for overflow parking if needed - On Sunday, an estimated 400 Premium Spaces and 300 General Spaces will be utilized for the event, with enough overflow parking to accommodate cars.
Parking Sales	<p>Tough Mudder sells different parking options based on location. Participants are encouraged on the Tough Mudder website and via email to purchase parking tickets in advance of the event. General parking is \$15.00 online or \$20.00 onsite. Preferred parking near the base area is available for \$30.00 within a short walk. In addition, premium parking with a designated entrance/exit route from Lake Sawyer</p>

Tough Mudder Seattle 2016 Operating Plan

	Road will be sold for \$40.00 per space.
Shuttle Bus Pick-Up/Drop-Off Locations	NA – No buses required
Name of local traffic management authority	Black Diamond Police Department
Name of traffic management/parking contractor/s	TMS (Traffic Management Services, Inc).
Estimated number of cars travelling to/from the venue on <u>Saturday</u>	1750 cars total, arriving throughout main ingress hours 415 cars per hour, <ul style="list-style-type: none"> • 415 cars/hr at preferred/general entrance (Lake Sawyer Rd)
Number/Frequency of Shuttle Buses travelling to/from the venue on <u>Saturday</u>	NA – No buses required
Number of traffic management/parking staff on <u>Saturday</u>	<ul style="list-style-type: none"> • 2 Managers • 20 volunteers OR paid staff
Estimated number of cars travelling to/from the venue on <u>Sunday</u>	700 total cars 385 cars per hour <ul style="list-style-type: none"> • 385 cars/hr at preferred/general entrance (Lake Sawyer Rd)
Number/Frequency of Shuttle Buses travelling to/from the venue on <u>Sunday</u>	NA - No Buses required
Number of traffic management/parking staff on <u>Sunday</u>	<ul style="list-style-type: none"> • 1 Manager • 15 volunteers OR paid volunteers

Further details about transportation, traffic management and parking arrangements will be developed and refined for Tough Mudder Seattle 2016 in the following document:

- ***Transportation, Traffic Management and Parking Plan***

Tough Mudder Seattle 2016 Operating Plan

VENUE SECURITY AND ACCESS CONTROL

Security staff will be on-site throughout the week leading up to the event and throughout the event weekend. Security staff are responsible for protecting assets from theft, managing access into certain event spaces, and providing a general security presence in support of the event. Security will also assist with alcohol, to be explained in detail in Alcohol Controls section.

During the event, security staff will be positioned at access points to key event spaces such as the entrance/exit arches, Event Command Center, the Event Production Compound and the Finish Chute, limiting access into those spaces to appropriately credentialed individuals.

Credentials will be issued to Tough Mudder staff members, Vendors, Sponsors, and Media.

A number of groups including Medical Staff, Volunteers and Spectators will also be issued with wristbands of varying colors identifying them as a member of that particular group.

Further details about access control for Tough Mudder Seattle 2016 can be found in the following documents upon request:

- ***Security Mudder Village Map***
- ***Security Staff Allocation***
- ***Volunteer Allocation (Wristband Check Volunteer position)***

Tough Mudder Seattle 2016 Operating Plan

FOOD AND ALCOHOL CONTROLS

Tough Mudder will contract with a number of local concessionaires to deliver the food and beverage options for the Tough Mudder Seattle 2016 Event. Beer will be available (for purchase only) and as long as beer is being sold or served, food and non-alcoholic beverages will also be available from the concessionaire.

Tough Mudder will work with the selected concessionaire, the Liquor Control Commission representatives and Health Dept representatives to ensure all permits are applied for in a timely manner and all regulations are met for approval.

The following arrangements will be in place to ensure smooth and safe flow of alcohol:

Identification Check: All participants and spectators wishing to enter the event area will be required to show ID at the registration tents prior to entering Mudder Village. They'll be granted an orange wristband indicating they are over 21, and this wristband will be checked at any point of sale, or in the finish chute where participants receive their free beer upon completion.

NOTE: All participants must be over the age of 18. Only roughly 10% of participants are between the ages of 18 and 21. In addition, the typical crowd at Tough Mudder events is not known to drink more than an average of 1 beer each after the event. They are passionate athletes who are more interested in recovering.

Security Checkpoints: Security guards will be posted throughout the event entrance and exit points to ensure that alcohol is only drunk within the secure perimeter that has been approved by the WV Liquor Control Board. Guards and Volunteers will spot check people holding beers to ensure they are wearing orange Shock Top wristbands.

In the event that a participant wearing a wristband may appear to be under the age of 21, an escort will be provided to allow the participant to retrieve his/her ID from the bag drop, and then return if age has been appropriately validated. All bartenders serving beer have the right to question and re-check identification for those who may look to be under age.

Saturday - Typical Alcohol Serving Hours (pending ABC laws): 9:00 AM - 6:00 PM

Sunday - Typical Alcohol Serving Hours (pending ABC laws): 9:00 AM - 6:00 PM

Tough Mudder Seattle 2016 Operating Plan

EVENT SERVICES

A range of services will be available to participants and spectators on-site throughout the event weekend.

The following table provides a summary of the key services being provided to participants and spectators at Tough Mudder Seattle 2016:

Service	Description
Info Desk	An information desk will be staffed throughout the weekend to assist with any queries.
Bag Drop	Participants will be able to leave their bags in location in the Base Area whilst on the course for a \$5 fee.
Finish Chute Giveaways	Participants will be given a Tough Mudder headband, Tough Mudder T-shirt, a beer (if 21), and food (energy bar and/or fruit) when they complete the course.
Food and Beverages	A range of food and beverages will be on sale in the Mudder Village throughout the weekend
Merchandise Sales	Tough Mudder Seattle 2016 merchandise will be on sale in the Mudder Village throughout the weekend
Sponsor Activities	A number of sponsor activities will be on offer in the Mudder Village throughout the weekend.
Charity Donation Opportunities	Participants and spectators will have the opportunity to donate money to <i>Team Rubicon</i> and to donate their shoes to shoe donation partner.
Entertainment	Music will be played in the Mudder Village throughout the weekend. (No band/DJ) Noise will be restricted between the hours of 9:00am – 7:00pm.
Photographs	Participants will be able to purchase photos of themselves tackling obstacles, taken by a professional event photographer.
Rinse Stations	Rinse Stations are available for participants and spectators to wash off the mud once they complete the course.
Lost and Found	A Lost and Found service will be at the Information Desk throughout the weekend. A staff member will log all lost and found items and do his or her best to return all lost items to owners. At the conclusion of the event, all remaining lost items will be brought to TMHQ's Customer Service Team. Those inquiring about Lost & Found will need to contact Tough Mudder through www.support.toughmudder.com/forums

Tough Mudder Seattle 2016 Operating Plan

COURSE OVERVIEW

The following table provides a summary of the course for Tough Mudder Seattle 2016:

Length of course	10 miles
Number of obstacles	25 obstacles
Description of terrain	The terrain is hilly, with sections of hilly motocross paths.
Estimated length of time to complete the course	First finisher expected to take 1 hour 45 min Average finisher expected to take 4 hours Slowest finisher expected to take up to 6 hours.

Further details about the preliminary course plan for Tough Mudder Seattle 2016 are available upon request in the following documents:

- *Course Map & Obstacle List*
- *Course Restoration Plan*

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Tough Mudder Seattle 2016 Operating Plan

MEDICAL ARRANGEMENTS

Tough Mudder events attract large numbers of people and are physically challenging by their nature. A medical provider has been engaged for Tough Mudder Seattle 2016 to respond to any calls for medical assistance by participants, spectators and staff.

There will be a medical presence on site at all times whilst participants and spectators are on site. First responders will be stationed at various locations around the course, and there will also be a medical station in the base area, ensuring a short response time for any medical incident on site. A number of ambulances will also be stationed on site during the event.

The following table provides a summary of medical arrangements for Tough Mudder Seattle 2016:

Name of Medical Services Provider	MedPrep
Name and Contact Details of primary Medical Services Provider Contact	Dr. Stuart Weiss, Medical Director Stu.weiss@toughmudder.com 917-921-2490
Number of first responder individuals/teams on site	Minimum of 40 each day, to be divided at the following locations: - 1 CFR at each obstacle, and additional lifeguards and EMTs or paramedics at water and electrical obstacles - 2 Local Physicians, 3 nurses, and 2 patient care assistants at the Main Medical Triage (in Mudder Village) - Off-Road Drivers driving Paramedic Rovers (5 UTVs and 2 ATVs with stokes baskets)
Number of ambulances on site	Saturday: 1 ALS, 1 BLS Sunday: 1 ALS
Name and Address of nearest hospital/s	These details will be included in the Incident Action Plan and Safety Medical Plan.

Further details about the Medical and Safety Plans will be developed in the following documents (samples available from past events upon request):

- ***Tough Mudder Incident Action Plan***
- ***Safety Medical Operations Plan***

Tough Mudder Seattle 2016 Operating Plan

CLEANING AND WASTE MANAGEMENT

Tough Mudder is committed to keeping event sites clean at all times. All waste generated on site at Tough Mudder Seattle 2016 will be appropriately stored and removed from the site.

Trash bins and dumpsters will be sourced for placement around the event site. These will be strategically positioned in areas where large amounts of waste are likely to be generated. Trash bins will be placed in all areas. Dumpsters will be placed in the Mudder Village, at the Start Line, in the Finish Chute, at Drink Stations on the course, and in car parks.

Contract cleaning staff will be scoped and will be present on site throughout the weekend to perform litter picking and to empty trash bins. Dumpsters will be scoped, placed strategically throughout site, and will be emptied at the conclusion of the event.

The following table provides a summary of cleaning and waste management arrangements for Tough Mudder Seattle 2016:

Name of Cleaning Staff Contractor	Labor Ready (Tentative)
Name and Contact Details of primary Cleaning Staff Contractor Contact	TBD
Number of Trash Bins on site	~40 Trash Bins in Mudder Village ~30 Trash bins on course at water stations ~1000 Trash Bags
Number of Dumpsters on site	~2 Large Dumpsters in the Mudder Village & Parking ~Minimum 5 dumpsters on course (located at water stations)
Number of Cleaning Staff on site	-Tough Mudder will source and manage ~20 waste management staff employees each day.

Further details about cleaning and waste management arrangements will be added to the Appendices as developed (samples available upon request):

- *Resource Allocation Plan;*
- *Comprehensive Staffing Plan;*
- *Cleaning & Waste Management Map*

Tough Mudder Seattle 2016 Operating Plan

OTHER SUPPORTING OPERATIONS

A number of additional arrangements to those outlined above will be in place to ensure that Tough Mudder Seattle 2016 runs smoothly.

Logistics

A Logistics Compound and Field Warehouse will be established on site. All equipment and product required for the event will be delivered to the Logistics Compound. Receipt, distribution and recovery of all equipment/product will be managed by a dedicated Logistics Coordinator.

Technology

Laptops will be set-up in the Event Command Center and Event Operations Center for use by Tough Mudder staff. Internet access will be available through a network made available by the venue. Staff working at the Registration Desk and Info Desk in the Base Area will also have laptops.

Between 50 and 150 radios will be used during the event, and will be stored/charged and distributed in the Logistics Field Warehouse. Chargers, spare batteries, ear pieces, antennas and hand mics have been scoped. A Radio Repeater will be installed on site to enable long-distance radio communications.

Further details about supporting operations will be available in following document upon request:

- *Master Delivery Schedule*

Tough Mudder Seattle 2016 Operating Plan

INCIDENT MANAGEMENT

Responsibility for managing incidents across the Tough Mudder Seattle 2016 event site rests with the Tough Mudder Event Team, led by the Event Director.

A range of measures will be in place at Tough Mudder Seattle 2016 to ensure that any incident that does occur is quickly identified and responded to in an efficient and effective manner:

- Tough Mudder creates an Incident Action Plan (IAP) to ensure everyone is working in concert toward the same goals set for the event.
- Key Event Operations Roles have been identified for the event, responsibilities for each role have been clearly defined, and each role will be filled by an experienced Tough Mudder staff member;
- An Organizational Chart has been developed, clearly identifying communication and reporting channels. This structure has been implemented at many previous Tough Mudder events;
- All staff in a management or supervisory role will be issued with a radio. A number of radio channels will be used, with radio users logically assigned to one of these channels according to their role. The 'lead'/manager on each channel will carry a second radio, and will be linked with other 'leads' on the 'Control' radio channel. All channels will be monitored by a person filling the role of 'Control', who will have the capacity to pass information to relevant individuals on any radio channel;
- An Event Command Center (ECC) will be in operation throughout the event. Key event documentation including contact lists will be available in the ECC. The ECC will be managed by 'Control', who will be based in the ECC at all times. If an incident occurs, the Event Director will manage the response to the incident, including the deployment of resources and/or communication of information, from the ECC;
- Details of all major incidents will be logged in the ECC by 'Control' or a logger on a real-time basis, ensuring an up-to-date record of what has occurred, actions taken in response, and relevant timings;
- Emergency Action Plans (EAPs) have been developed for a number of specific scenarios, and event team staff have been briefed on how to respond if such incidents occur. Specific scenarios for which Incident Management Plans exist are:
 - Death or Serious Injury;
 - Obstacle Failure or Collapse;
 - Major Traffic Incident;
 - Severe Weather;
 - Evacuation;
 - Non-Controlled Fire;
- A number of medical staff as well as a minimum of 2 ambulances will be on site throughout the event;

Tough Mudder Seattle 2016 Operating Plan

- The local Police and Fire Departments have been informed about the event and appropriate contacts have been identified should additional assistance be required on site;
- Emergency vehicle access points and a helicopter landing area have been identified for the site and included in plans, should these be required;
- Incident Report Forms are available on site and all staff will be instructed to complete these for any incidents they witness/report.
- 'What if' desktop exercises will be conducted prior to the event weekend, playing out scenarios that would require implementation of the EAPs, and other potential scenarios such as "lost child".

Further details about incident management arrangements will be available in the following documents (samples currently available upon request):

- ***Incident Action Plan (including Organizational Chart)***
- ***Event Position Guides***
- ***Emergency Action Plans***
 - Death or Serious Injury;
 - Obstacle Failure or Collapse;
 - Major Traffic Incident;
 - Severe Weather;
 - Evacuation;
 - Non-controlled Fire
- ***Evacuation Maps;***
- ***Emergency Vehicle Access and Helicopter Landing Area Plan***

Tough Mudder Seattle 2016 Operating Plan

OCCUPATIONAL SAFETY & HEALTH

The health and safety of all participants, spectators, staff and others on site throughout Tough Mudder Seattle 2016 is a priority of the Event Team.

A range of measures will be in place at Tough Mudder Seattle 2016 to ensure the site is as safe as possible and to minimize the risk of harm to any individual:

- A range of guidelines have been developed and will be implemented at the event, including:
 - Loading and Unloading Vehicles;
 - Setting Up and Packing Down Infrastructure;
 - Use of Utility Terrain Vehicles (UTVs);

- In the event of an incident, one or more experienced team members have been designated as 'safety officer' to assist in the management of the incident.

- A gates open procedure will be implemented whereby a series of checks are carried out to ensure the site is safe before gates are opened to participants and spectators.

Further details about health and safety arrangements will be available for the Seattle 2016 Event (sample available upon request):

- *Gates Open Checklist*

Tough Mudder Seattle 2016 Operating Plan

ADDITIONAL EVENT DOCUMENTATION

A range of additional documents to those mentioned in this Operating Plan will be prepared and will serve as important references to the Event Team during the event. These documents will be available in the Event Command Center during the event, as a supplement to this Event Operating Plan.

The following Appendices are attached on the following pages:

- Mudder Village Maps
- Course Map with Obstacle List
- Course Map showing Black Diamond County Property
- Event Timeline
- Organizational Chart
- Comprehensive Staff Plan

Due to size, the following documents are available as separate documents:

- Comprehensive Resource Plan
- Traffic and Parking Plan
- Course Restoration Plan
- Additional Course Maps (medical maps, grid maps, access maps)
- Incident Action Plan (including full contact list and organizational chart)

Other documents will be made available upon request:

- Participant Database
- Venue Use Agreement
- Construction Schedule
- Load In/Load Out/Delivery Schedule
- Event Position Guides
- Radio Use Protocols
- Credentials Plan
- Waste Management Map
- Safety Operations Plan
- Emergency Action Plans
- Evacuation Maps
- Emergency Vehicle Access and Helicopter Landing Area Map
- Financials (private & confidential)
- Planning Meeting Notes

Tough Mudder Seattle 2016 Operating Plan

MUDDER VILLAGE MAP



Tough Mudder Seattle 2016 Operating Plan

COURSE MAP WITH OBSTACLE LIST



EVENT TIMELINE

Tough Mudder Seattle 2016 Operating Plan

EVENT TIMELINE		
Saturday, September 24, 2016		
TIME	ACTION	LEAD
5:00 AM	TMHQ Team ON SITE	TMHQ Teams
5:00 AM	Parking Staff In Place	Parking Management
6:00 AM	ALL Parking Lots Open	Parking Management
6:00 AM	Volunteer Shift #1 Arrival	Workforce
7:04 AM	SUNRISE	ALL
6:45 AM	AM Volunteer Presentation & Deployment	Workforce
6:45 AM	Base Area Sweep	Base Area Manager
7:00 AM	<u>ALL Parking - Est. Heavy INGRESS BEGINS</u>	Parking Management
7:00 AM	EVENT OPENS	Base Area Manager
7:40 AM	Confirm Course & Medical Ready	Course Manager/ Medical Manager
8:00 AM	First Start Wave (<i>15 minute intervals</i>)	Operations Manager
11:00 AM	<u>ALL Parking - Est Heavy EGRESS BEGINS</u>	Parking Management
12:00 PM	AM/PM Volunteer Shift Change	Workforce
1:00 PM	<u>ALL Parking - Est. Heavy INGRESS ENDS</u>	Parking Management
2:00 PM	Registration Closes	Parking Management
2:00 PM	Last Start Wave	TMHQ Teams
2:20 PM	Start Line Closes	Base Manager
6:56 PM	SUNSET	ALL
7:00 PM	<u>ALL Parking - Est. Heavy EGRESS ENDS</u>	Parking Management
7:00 PM	Course Closes	Course Manager/ Medical Manager
7:30 PM	Beer Sales Shutdown	Base Area Manager
7:30 PM	EVENT CLOSES	Operations Manager

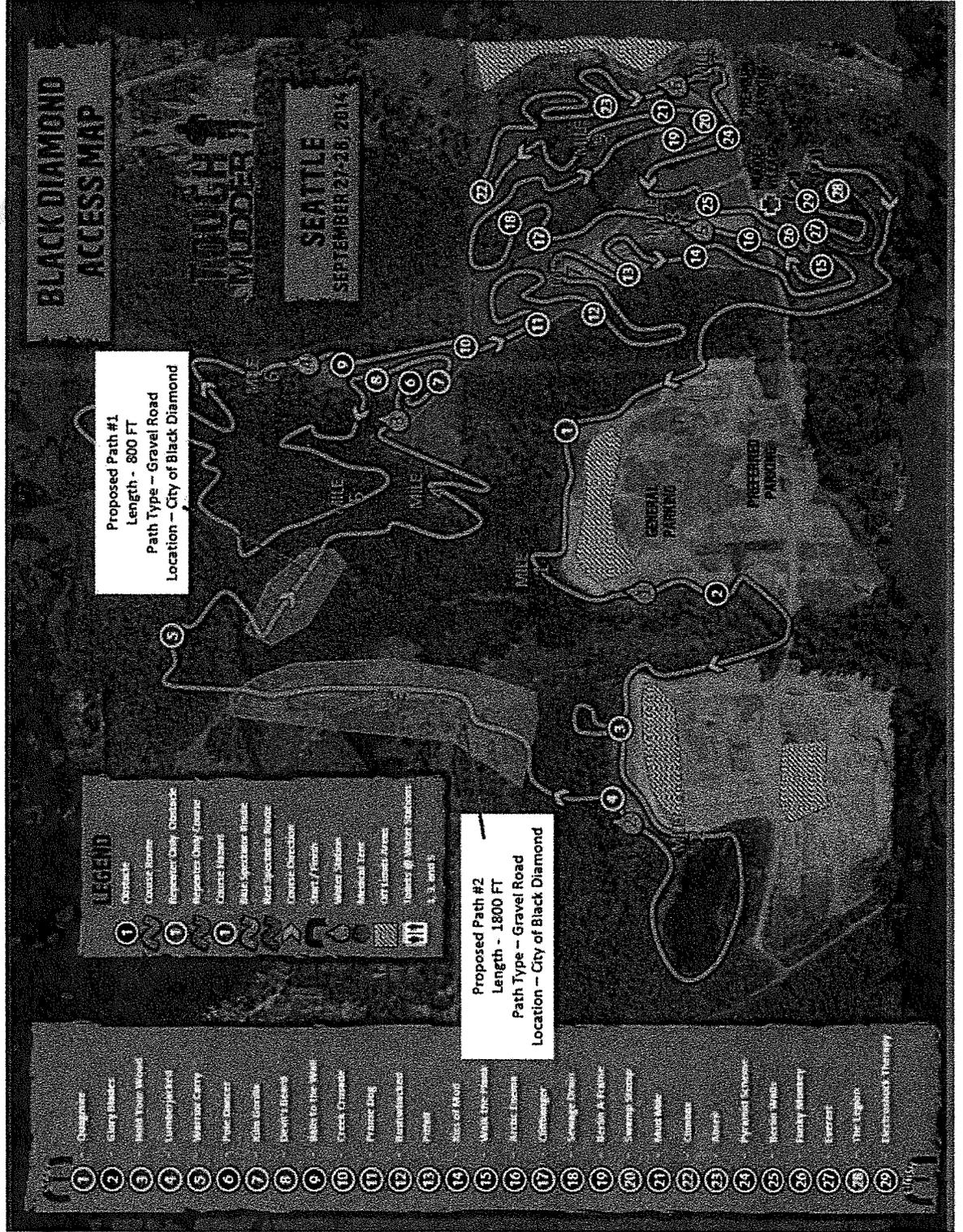
Tough Mudder Seattle 2016 Operating Plan

EVENT TIMELINE		
Sunday, September 25, 2016		
TIME	ACTION	LEAD
6:00 AM	TMHQ Team ON SITE	TMHQ Teams
6:00 AM	Parking Staff In Place	Parking Management
7:00 AM	ALL Parking Lots Open	Parking Management
7:00 AM	Volunteer Shift #1 Arrival	Workforce
7:04 AM	SUNRISE	ALL
7:45 AM	AM Volunteer Presentation & Deployment	Workforce
7:45 AM	Base Area Sweep	Base Area Manager
8:00 AM	<u>ALL Parking - Est. Heavy INGRESS BEGINS</u>	Parking Management
8:00 AM	EVENT OPENS	Base Area Manager
8:40 AM	Confirm Course & Medical Ready	Course Manager/ Medical Manager
9:00 AM	First Start Wave (<i>15 minute intervals</i>)	Operations Manager
12:00 PM	<u>ALL Parking - Est Heavy EGRESS BEGINS</u>	Parking Management
12:00 PM	AM/PM Volunteer Shift Change	Workforce
1:00 PM	<u>ALL Parking - Est. Heavy INGRESS ENDS</u>	Parking Management
10:00 AM	Registration Closes	Parking Management
10:00 AM	Last Start Wave	TMHQ Teams
10:20 AM	Start Line Closes	Base Manager
3:00 PM	<u>ALL Parking - Est. Heavy EGRESS ENDS</u>	Parking Management
5:00 PM	Course Closes	Course Manager/ Medical Manager
5:30 PM	Beer Sales Shutdown	Base Area Manager
5:30 PM	EVENT CLOSES	Operations Manager
6:56 PM	SUNSET	ALL

Tough Mudder Seattle 2016 Operating Plan

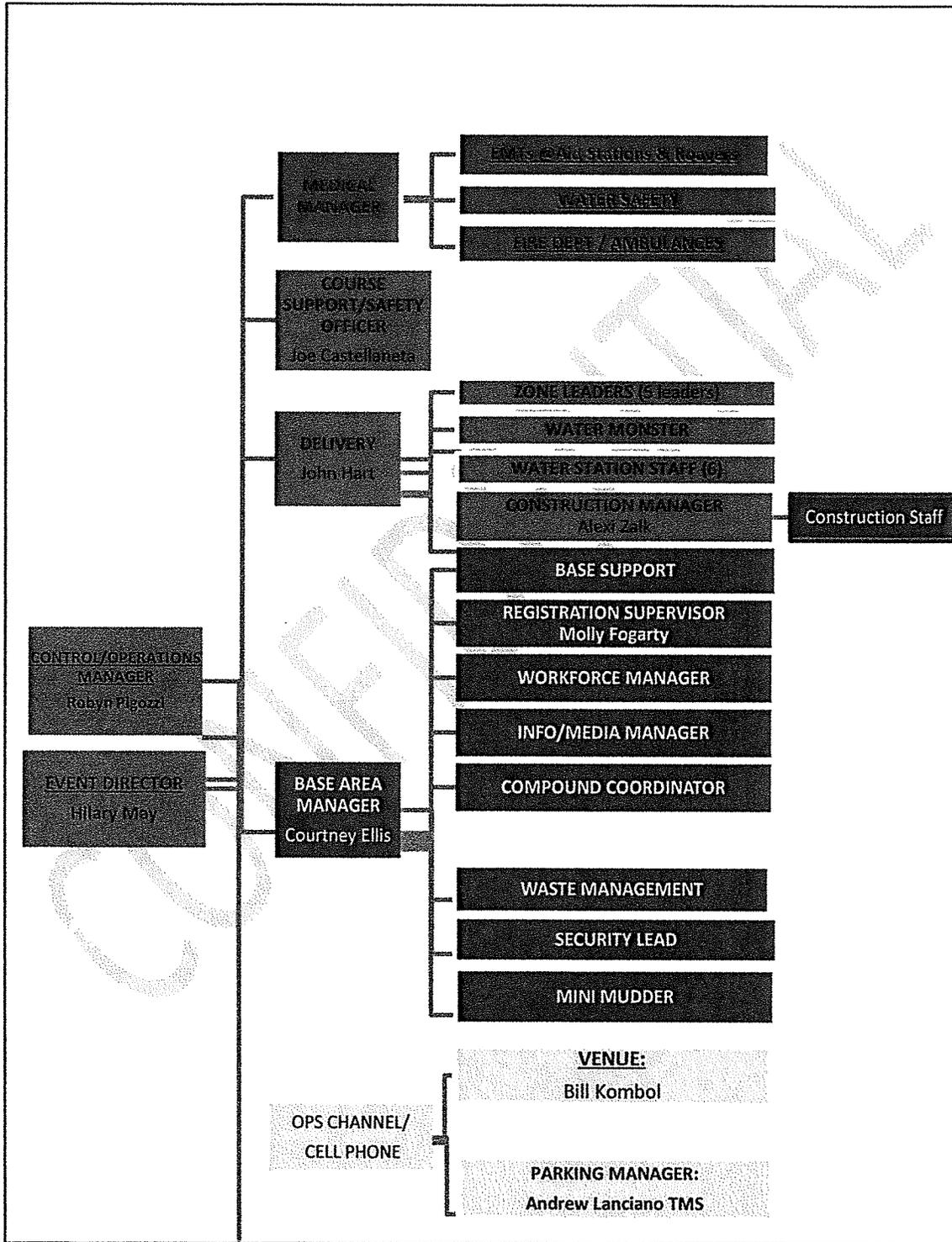
COURSE MAP SHOWING BLACK DIAMOND PARK USE (same as 2015 operational plan)

Course Route will utilize two small sections of course (noted in blue sections in map below) that are on City of Black Diamond property. Tough Mudder will demarcate these routes (~10ft wide) to contain impact of participants. Spectators will not be allowed toward these sections of course.



Tough Mudder Seattle 2016 Operating Plan

ORGANIZATION CHART



CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute an amendment of the current contract with Parametrix Inc. to serve as the surveying consultant to the MDRT Cost Impact - Developer funded per the Development Agreement Fund Source: -- CCD Black Diamond Partners LLC /Oakpointe LLC Timeline: immediately	Agenda Date: September 1, 2016	
	AB16-049	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
Public Works – Seth Boettcher		
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; Amendment to Parametrix Surveying Consultant PSA Contract		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have requested this item be placed on the agenda. This resolution is to extend the contract via Resolution 14-972, for surveying services with Parametrix Inc. FISCAL NOTE: (Finance Department): Per the Funding Agreement, all cost associated with the contract will be reimbursed by the Developer.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-xxx (Clerk to assign number after adoption), authorizing the Mayor to execute a professional service agreement with Parametrix for the Surveying consultant for the Master Development Review Team		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 1, 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 SURVEYING SERVICES FOR THE MDRT

WHEREAS, on September 18, 2014 the Consultant and the City entered into a contract for ongoing services as described in the contract; and

WHEREAS, the contract will soon expire, and the City would like to continue the contract with the consultant;

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

Section 1. Authorize the mayor to enter into a contract for services as outlined in the contract between the Consultant and the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF SEPTEMBER, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND PARAMETRIX, INC.
FOR MDRT SURVEY SERVICES**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **Parametrix, Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington located and doing business at 1019 39th Avenue S.E., Suite 100, Puyallup, WA 98374.

RECITALS

WHEREAS, the City does not have sufficient staff resources to provide surveying services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from Oakpointe and an approved budget to fund the oversight, engineering review, inspections, and development agreement enforcement to assist the City with its regulatory role; and

WHEREAS, the City has previously contracted with Consultant to provide the City with the same or substantially similar services for the MDRT, and the City desires to continue working with Consultant on MDRT matters under the terms and conditions set forth herein; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

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

TERMS

I. Description of Work

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The surveying services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on-call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is attached hereto and incorporated herein by this reference.

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

III. Relationship of Parties

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

IV. Duration of Work

This Agreement shall remain in effect from the date this Agreement is signed by both parties until such time as either party gives written notice of termination pursuant to Section V, below.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the

Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

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

VI. Discrimination

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

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, 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.

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

VIII. Insurance

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

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

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

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

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

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

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit, and any insurance maintained by the City shall not contribute with it. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of

Black Diamond at least 3 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City, and Consultant assigns to the City all of Consultant's right, title, and interest in any such drawings, designs, reports, and documents. 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, and in no event may Consultant use less than reasonable care with respect to information provided to it by the City. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

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

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, then either party may file suit, the jurisdiction and venue of which lies exclusively in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, excluding its choice-of-law rules. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

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

CONSULTANT:

Attn: Austin R. Fisher, P.E.

CITY:

Attn: Andrew Williamson

Parametrix, Inc.
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374

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

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

XVII. Assignment

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

XVIII. Modification and Severability

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

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

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2016.

CONSULTANT

By: 
John Perlic, P.E.
Its: Senior Vice President

Consultant: Parametrix, Inc.

CITY OF BLACK DIAMOND

By: _____
Carol Benson, Mayor

APPROVED AS TO FORM:

David A. Linehan
City Attorney

ATTEST:

Brenda Martinez, City Clerk

EXHIBIT A

Master Development Review Team Scope of Survey Work

Primary Task Responsibilities

- Land Use Application Review – Assuring Submittals Meet State and Local Survey Related Requirements and Compliance with Master Development Agreements
 - Road Vacations and Dedications
 - Wetland Buffer Compliance
 - Boundary Line Adjustments
 - Final Plats
 - Short Plats
 - Binding Site Plans
 - Condominium Plats
 - Legal Descriptions
- MDR Team Participation, Meetings, Reports

Supplemental Task Responsibilities

- Horizontal and Vertical Control Verification
 - Establish Network
 - Benchmarks
 - Monument Preservation and Perpetuation
 - DNR Required Monument Destruction Permits
- Boundary
 - Section Subdivision
 - Deed Interpretation
 - Historical Ownership – Chain of Title
 - Riparian Rights
 - Railroad Easements and ROW
- Right of Way
 - Determination and Mapping ROW, Easements, Tracts, etc.
 - ROW Acquisition Assistance
- Construction Support
 - Review of Plans – Constructibility
- Mapping
 - Topographic Mapping and Base Map
 - High Definition – 3D Scanning
 - FEMA Elevation Certificates
 - Wetland Mapping and Buffer Establishment

**EXHIBIT C
CITY OF BLACK DIAMOND
MASTER DEVELOPMENT REVIEW TEAM
SURVEY BILLING RATE SCHEDULE**

<u>Classification</u>	<u>Hourly Billing Rate</u>
Principal	\$215.00
Survey Division Manager	\$175.00
Survey Project Manager	\$145.00
Survey Office Technician	\$85.00 - \$104.00
Survey CADD Technician	\$72.00 - \$85.00
Field Survey Party Chief	\$98.00 - \$105.00
Field Survey Crew Member	\$65.00 - \$78.00
Administrative Project Support	\$80.00
Expert Witness Testimony	\$250.00

Direct project expenses and reproduction costs are billed at cost plus 15%
Mileage expense is billed at current approved IRS mileage rate
Lodging and PerDiem costs are billed at current GSA rates
Survey equipment except laser scanner billed at \$150/day
Laser Scanner is billed at \$97.40/hour

Prevailing Wage Rates apply to construction surveying on all Public Works projects (See Washington State Prevailing Wage Schedule for each County)

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: September 1, 2016	AB16-050
Resolution authorizing the Mayor to execute an amendment of the current contract with Parametrix Inc. to serve as the traffic engineer consultant to the MDRT	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
Cost Impact - Developer funded per the Development Agreement	Court – Stephanie Metcalf	
Fund Source: -- CCD Black Diamond Partners LLC /Oakpointe LLC		
Timeline: immediately		
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 xxx; Amendment to Parametrix Traffic Engineering Consultant PSA Contract		
SUMMARY STATEMENT:		
Councilmembers Deady and Edelman requested this item to be placed on the agenda.		
This resolution is to extend the contract via Resolution 14-973, for traffic engineering services with Parametrix Inc.		
FISCAL NOTE: (Finance Department): Per the Funding Agreement, all cost associated will the contract will be reimbursed by the Developer.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-xxx (Clerk to assign number after adoption), authorizing the Mayor to execute a professional service agreement with Parametrix for the Traffic Engineering consultant for the Master Development Review Team		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 1, 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 TRAFFIC ENGINEERING SERVICES FOR THE MDRT

WHEREAS, on September 18, 2014 the Consultant and the City entered into a contract for ongoing services as described in the contract; and

WHEREAS, the contract will soon expire, and the City would like to continue the contract with the consultant;

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

Section 1. Authorize the mayor to enter into a contract for services as outlined in the contract between the Consultant and the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF SEPTEMBER, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND PARAMETRIX, INC.
FOR MDRT TRAFFIC ENGINEERING SERVICES**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **Parametrix, Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 1019 39th Avenue S.E., Suite 100, Puyallup, WA 98374.

RECITALS

WHEREAS, the City does not have sufficient staff resources to provide traffic engineering services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from Oakpointe and an approved budget to fund the oversight, engineering review, inspections, and development agreement enforcement to assist the City with its regulatory role; and

WHEREAS, the City has previously contracted with Consultant to provide the City with the same or substantially similar services for the MDRT, and the City desires to continue working with Consultant on MDRT matters under the terms and conditions set forth herein; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

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

TERMS

I. Description of Work

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The traffic engineering services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on-call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is attached hereto and incorporated herein by this reference.

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

III. Relationship of Parties

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

IV. Duration of Work

This Agreement shall remain in effect from the date this Agreement is signed by both parties until such time as either party gives written notice of termination pursuant to Section V, below.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the

Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

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

VI. Discrimination

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

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, 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.

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

VIII. Insurance

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

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

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

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

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

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

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit, and any insurance maintained by the City shall not contribute with it. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of

Black Diamond at least 3 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City, and Consultant assigns to the City all of Consultant's right, title, and interest in any such drawings, designs, reports, and documents. 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, and in no event may Consultant use less than reasonable care with respect to information provided to it by the City. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

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

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, then either party may file suit, the jurisdiction and venue of which lies exclusively in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, excluding its choice-of-law rules. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

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

CONSULTANT:

Attn: Austin R. Fisher, P.E.
Parametrix, Inc.

CITY:

Attn: Andrew Williamson
City of Black Diamond

1019 39th Avenue S.E., Suite 100
Puyallup, WA 98374

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

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

XVII. Assignment

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

XVIII. Modification and Severability

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

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

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2016.

CONSULTANT

By: 
John Perlic, P.E.
Its: Senior Vice President

Consultant: Parametrix, Inc.

CITY OF BLACK DIAMOND

By: _____
Carol Benson, Mayor

APPROVED AS TO FORM:

David A. Linehan
City Attorney

ATTEST:

Brenda Martinez, City Clerk

Exhibit A

Master Development Review Team

Traffic and Transportation Review Services General Scope of Services

- Traffic Impact Study review and findings
- Traffic Monitoring Report review and findings
- Traffic safety studies
- Travel demand forecasting and modeling
- Traffic operations modeling
- Intersection level of service analysis
- Roundabout evaluation
- Design concept review
- Sight distance evaluation
- Pedestrian and bicycle facility planning and design
- Transit facility planning and design
- Parking management and guidelines
- Code language and design standards review
- Traffic calming strategies review
- Coordination with City staff
- Attendance at City Council or public meetings or hearings

Exhibit C

Parametrix Maximum Allowable Rates through September 30, 2012

Classification	Grade	Rate for Billing	Classification	Grade	Rate for Billing
CADD Operator I	8	\$70	Jr. Planner	8/9	\$75
CADD Operator II	9/10	\$85	Planner I	10	\$90
CADD Operator III	11	\$115	Planner II	11	\$100
CADD Tech Lead	12	\$120	Planner III	12/13	\$120
CADD Supervisor	12	\$110	Planner IV	14	\$130
CADD Services Manager	14	\$125	Sr. Planner	15	\$150
Designer I	10	\$100	Sr. Planner	16	\$170
Designer II	11	\$105	Sr. Planner	17	\$190
Designer III	12	\$120	Jr. Scientist/Biologist	8	\$75
Designer III	13	\$135	Scientist/Biologist I	10	\$85
Designer IV	14	\$145	Scientist/Biologist II	11	\$110
Sr. Designer	15	\$150	Scientist/Biologist III	12	\$115
Sr. Designer	16/17	\$165	Scientist/Biologist III	13	\$120
			Scientist/Biologist IV	14	\$135
Engineering Technician I	8	\$75	Sr. Scientist/Biologist	15	\$150
Engineering Technician II	9	\$85	Sr. Scientist/Biologist	16	\$165
Engineer I	10	\$95	Sr. Scientist/Biologist	17	\$175
Engineer II	11	\$100	Environmental Technician I	8	\$85
Engineer III	12	\$115	Environmental Technician II	9	\$90
Engineer III	13	\$125	Environmental Technician III	10	\$100
Engineer IV	14	\$135			
Sr. Engineer	15	\$150	Jr. Toxicologist	8	\$75
Sr. Engineer	16	\$170	Toxicologist I	10	\$95
Sr. Engineer	17	\$190	Toxicologist II	11	\$105
Sr. Consultant	18	\$235	Toxicologist III	12/13	\$115
Sr. Consultant	19	\$250	Toxicologist IV	14	\$140
			Sr. Toxicologist	15/16	\$165
Jr. Surveyor	8	\$70	Sr. Toxicologist	17	\$210
Surveyor I	9	\$80			
Surveyor II	10	\$85	Hydrogeologist I	10	\$95
Surveyor III	11	\$110	Hydrogeologist II	11	\$100
Sr. Surveyor	12	\$115	Hydrogeologist III	12/13	\$115
Sr. Surveyor	13	\$140	Hydrogeologist IV	14	\$115
Survey Supervisor	14	\$145	Sr. Hydrogeologist	15	\$150
Regional Surveyor	18	\$185	Sr. Hydrogeologist	16	\$165
			Sr. Hydrogeologist	17	\$170
Construction Technician I	8/9	\$85	GIS Technician	9/10	\$85
Construction Technician II	10	\$90	Sr. GIS Analyst	11	\$95
Construction Technician III	11	\$120			
Construction Technician IV	12	\$135	Graphic Artist	9	\$80
Construction Manager I	11	\$110	Sr. Graphic Artist	10	\$110
Construction Manager II	12	\$125			
Construction Manager III	13	\$135	Technical Aide	7	\$70
Construction Manager IV	14	\$145	Sr. Technical Aide	8	\$75
Sr. Construction Manager	15	\$150	Project Coordinator	9	\$90
Sr. Construction Manager	16	\$170	Sr. Project Coordinator	10	\$95
Sr. Construction Manager	17	\$175	Project Controls Specialist	11	\$100
Site Construction Manager	18	\$180	Project Coordination Supervisor	11	\$100
Operations Manager	16	\$150			
Operations Manager	17	\$170	Project Accountant	8	\$80
Operations Manager	18	\$180	Project Accountant	9	\$85
Division Manager	16	\$165	Sr. Project Accountant	10	\$95
Division Manager	17	\$205	Sr. Accounting Specialist	10	\$100
Division Manager	18/19	\$235	Sr. Contract Administrator	11	\$115
Regional Division Manager	18/19	\$240			
Program Manager	18/19	\$250	Library Specialist	9	\$80
Program Manager	20	\$260	Librarian	11	\$85
Principal Consultant	19	\$270	Information Resource Manager	13	\$125
Principal Consultant	20	\$295	LAN Admin I	11	\$100
Project Delivery Officer	19	\$235	LAN Admin II	12	\$110
Principal	19/20	\$295	Sr. LAN Admin	13	\$105
			Office Clerk	4	\$55
Word Processor	7	\$65	Receptionist	6	\$60
Sr. Word Processor	8	\$75	Admin Assistant	6/7	\$65
Word Processing Specialist	9	\$95	Sr Admin Assistant	8	\$70
Technical Editor	10	\$105	Sr Admin Assistant	9	\$90
Word Proc Mgr/Editor	11	\$110	Office Administrator	10	\$95
Production Manager	12	\$130	Sr. Office Administrator	11	\$110
			Office Administrative Manager	12-14	\$130
Expert Witness		\$250			
Value Engineering		\$250			

Direct project expenses and reproduction costs are billed at cost plus 15%
 Public hearing testimony services are billed at hourly rates plus 30%

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute an amendment of the current contract with RH2 to serve as the civil engineering consultant to the MDRT Cost Impact - Developer funded per the Development Agreement Fund Source: -- CCD Black Diamond Partners LLC /Oakpointe LLC Timeline: immediately	Agenda Date: September 1, 2016	
	AB16-051	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
Public Works – Seth Boettcher		
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; Amendment to RH2 Civil Engineering Consultant PSA Contract		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have requested this item to be placed on the agenda. This resolution is to extend the contract via Resolution 14-978, for engineering services with RH2 Engineering. FISCAL NOTE: (Finance Department): Per the Funding Agreement, all cost associated with the contract will be reimbursed by the Developer.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-xxx (Clerk to assign number after adoption), authorizing the Mayor to execute a professional service agreement with RH2 Engineering for the Civil Engineering consultant for the Master Development Review Team		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 1, 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 RH2 FOR CIVIL ENGINEERING SERVICES FOR THE MDRT

WHEREAS, on September 18, 2014 the Consultant and the City entered into a contract for ongoing services as described in the contract; and

WHEREAS, the contract will soon expire, and the City would like to continue the contract with the consultant;

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

Section 1. Authorize the mayor to enter into a contract for services as outlined in the contract between the Consultant and the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF SEPTEMBER, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT
FOR CIVIL ENGINEERING SERVICES**

This Professional Services Agreement (“Agreement”) is entered into by and between:

CITY OF BLACK DIAMOND, WASHINGTON (the “City”)

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: Andy Williamson Phone: 360-886-5700 Fax : 360-886-2592

and

RH2 ENGINEERING, INC. (“Consultant”)

Physical Address: 22722 29th Drive SE, Suite 210

Bothell, WA 98021

Mailing Address: Same as above

Contact: Dan Ervin, P.E. Phone: 425-951-5400 Fax: 425-951-5401

Tax Id No.: 91-1108443

for non-exclusive on-call professional civil engineering services in connection with the following project:

City of Black Diamond Master Development Review Team.

WHEREAS, the City has previously contracted with Consultant to provide the City with the same or substantially similar services for the MDRT, and the City desires to continue working with Consultant on MDRT matters under the terms and conditions set forth herein; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

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

TERMS AND CONDITIONS

1. Services by Consultant

1.1 Consultant has been retained by the City to provide professional civil engineering on-call services as generally described in the Scope of Work attached to this Agreement as Exhibit "A". The services performed by Consultant shall not exceed the Scope of Work nor shall the Consultant be entitled to a greater amount of

compensation as that provided in this Agreement without the prior written authorization of the City.

1.2 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 this Agreement.

1.3 Consultant represents and warrants that it, its staff to be assigned to the Project, and its subconsultants and their staff have the requisite training, skill, and experience necessary to provide the services required by this Agreement and are appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant and its subconsultants 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.

2. Schedule of Work

2.1 The City will issue an on-call task request for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on-call task request issued by the City in the form attached as Exhibit "B." Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (the "Task Scope of Work").

2.2 Consultant will work within the project schedule set forth in the on-call task request and will diligently proceed with the work and shall assure that it, and its subconsultants, will have adequate staffing at all times in order to complete the Scope of Work in a timely manner. If factors beyond Consultant's control that could not have been reasonably foreseen as of the date of this Agreement cause delay, then the parties will negotiate in good faith to determine whether an extension is appropriate. The Consultant shall provide the City with written notice of any delay, or potential delay, that may trigger the need for a time extension within 3 business days after the Consultant becomes aware of the delay or potential delay.

2.3 Consultant is authorized to proceed with services upon receipt of a signed task order.

3. Compensation

3.1 Rates. Compensation for the services provided pursuant to each on-call task request shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "C". Consultant may adjust the billing rates and reimbursable expenses once each calendar year on or after January 1st by providing the City with written notice of the adjusted rates and expenses no less than (30) thirty days prior to the effective date of such adjustment. The billing rates and reimbursable expenses for on-call task orders issued prior to receipt of written notice of the rate/expense adjustment by the City shall not be affected by the adjustment.

3.2 Other. In the event that after commencement of work, the Consultant anticipates that the work for an on-call task request will exceed the initial amount authorized, Consultant shall promptly notify the City and provide the City with whatever documents or information is necessary to request approval of any amounts in excess thereof.

4. Payment

4.1 Consultant shall maintain time and expense records and provide them to the City monthly, along with monthly invoices, in a format acceptable to the City for work performed to the date of the invoice.

4.2 All invoices shall be paid by City warrant within sixty (60) days of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

4.3 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. Consultant shall make copies available to the City on request.

4.4 If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

5. Discrimination and Compliance with Laws

5.1 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.

5.2 Consultant and its subconsultants shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

5.3 Any violation of this Section 5 shall be a material breach of this Agreement and grounds for immediate cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in Consultant's ineligibility to conduct further work for the City.

6. Duration, Suspension, and Termination of Agreement

6.1 This Agreement shall remain in effect from the date this Agreement is signed by both parties until such time as either party gives written notice of termination or suspension pursuant to this Section 6.

6.2 The City reserves the right to terminate or suspend this Agreement at any time, without cause, by giving Consultant notice in writing no fewer than ten (10) days prior to the stated termination or suspension date. In the event of termination, all finished or unfinished reports, or other material prepared by Consultant pursuant to this Agreement, shall be submitted to the City. In the event the City terminates this Agreement prior to completion without cause, Consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to compensation for any satisfactory work completed on the Project prior to the date of suspension or termination.

6.3 Any notice from the City to Consultant regarding the suspension of this Agreement shall specify the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Consultant's reasonable expenses and shall be subject to verification. Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

7. Standard of Care

7.1 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 Consultant provides 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. Consultant understands and agrees that the services rendered pursuant to this Agreement are for the sole exclusive benefit of the City and that no third party shall have authority to authorize, approve, direct or control any of the services rendered to the City pursuant to this Agreement.

8. Ownership of Work Product

8.1 Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall be vested in the City and shall be submitted to the City upon termination of this Agreement. Consultant assigns to the City all of Consultant's right, title, and interest in any such documents. Any reuse of these materials by the City for projects or purposes other than those that fall within the scope of this Agreement and the Project to which it relates, without written concurrence by Consultant, will be at the sole risk of the City.

8.2 The City acknowledges Consultant's documents as instruments of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the work. The City agrees to hold harmless and indemnify Consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of the City's reuse of such documents beyond the use for which they were originally intended without the written authorization of Consultant.

8.3 Methodology, software, logic, and systems developed under this Agreement are the property of Consultant and the City, and may be used as either Consultant or the City see fit, including the right to revise or publish the same without limitation.

9. Indemnification/Hold Harmless

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees, volunteers, and agents harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising directly or indirectly out of or resulting from the acts, errors, or omissions of Consultant or its subconsultants in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. PROVIDED, HOWEVER, THAT IF ANY SUCH CLAIMS, INJURIES, DAMAGES, LOSSES OR SUITS RESULT FROM THE CONCURRENT NEGLIGENCE OF CONSULTANT AND THE CITY, IT IS EXPRESSLY AGREED THAT CONSULTANT'S OBLIGATIONS AND INDEMNITY UNDER THIS PARAGRAPH SHALL BE EFFECTIVE ONLY TO THE EXTENT OF CONSULTANT'S NEGLIGENCE.

9.2 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.

9.3 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.

9.4 The provisions of this Section 9 shall survive the expiration or termination of this Agreement.

10. Insurance

10.1 Consultant shall procure and maintain for the duration of the Agreement, and shall provide proof satisfactory to the City that such insurance is procured and maintained by each of its subconsultants, 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 Consultant, its agents, representatives, or employees.

10.2 Consultant shall procure and maintain the following types and amounts of insurance:

a. 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. This insurance shall have a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

b. 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, personal injury, and advertising injury. This insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

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

d. Professional Liability insurance appropriate to Consultant's profession, with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

10.3 The Automobile Liability, Commercial General Liability, and Professional Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

a. Consultant's insurance coverage shall be primary insurance vis-à-vis the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess over Consultant's insurance and shall not contribute with it.

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

10.4 The City shall be named as an additional insured under Consultant's Automobile Liability and Commercial General Liability insurance policies with respect to the work to be performed for the City pursuant to this Agreement.

10.5 Insurance shall be placed with insurers with a current A.M. Best rating of not less than A:VII.

10.6 Declaration pages issued by the insurance carriers for the policies mentioned in this Section 10 showing such insurance to be in force shall be filed with the City not less than ten (10) days following both parties signing this Agreement and before commencement of the work. In addition, the City may request, in writing, a full copy from Consultant of any insurance policy Consultant must procure and maintain pursuant to this Agreement and Consultant must provide such copy to the City within ten (10) days of Consultant's receipt of the City's request. Any policy or required insurance written on a claims-made basis shall provide coverage as to all claims arising out of the services performed under this Agreement and for three (3) years following completion of the services to be performed. It shall be a material breach of this Agreement for Consultant to fail to procure and maintain the insurance required by this Section 10 or to provide the proof of such insurance to the City as provided for in this Agreement.

11. Assigning or Subcontracting

11.1 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 at the sole discretion of the City.

12. Independent Contractor

12.1 Consultant and its subconsultants are, and shall be at all times during the term of this Agreement, independent contractors. 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.

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

13. Notice

13.1 All notices required by this Agreement shall be considered properly delivered when personally delivered by courier service, when received by facsimile, or on the third day following mailing, postage prepaid, certified mail, return receipt requested to:

City: Andy Williamson
City of Black Diamond
24301 Roberts Drive
P.O. Box 599
Black Diamond, WA 98010
Fax: 360-886-2592

With a copy to: City Clerk

Consultant: Dan Ervin, P.E.
Vice President
RH2 Engineering, Inc.
22722 29th Drive SE, Suite 210
Bothell, WA 98021
Fax: 425-951-5401

14. Disputes

14.1 Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington, excluding its choice-of-law rules. Venue and personal jurisdiction shall lie exclusively in King County Superior Court, Kent, Washington.

15. Attorney Fees

15.1 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 fees from the other party.

16. General Administration and Management on Behalf of the City

16.1 The MDRT Director the City, or his/her designee(the contract Administrator) shall review and approve Consultant's invoices to the City under this Agreement and shall have primary responsibility for overseeing and approving work or services to be performed by Consultant. Consultant understands and agrees that any and all work to be performed pursuant to this Agreement must be approved in advance by the contract Administrator. No third party, including the project applicant, shall have any direct control or influence over the services performed under this Contract.

16.2 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 of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

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

17. Extent of Agreement/Modification

17.1 This Agreement, together with any 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 Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the project applicant or any affiliate or agent of the project applicant.

18.2 The Consultant warrants and represents that the Consultant has not, nor has any other member, employee, representative, agent or officer of the Consultant, entered into or offered to enter into any combination, collusion or agreement with any person or entity to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of this Contract other than the consideration offered pursuant to the terms and conditions hereof.

AGREED TO BY:

CITY OF BLACK DIAMOND

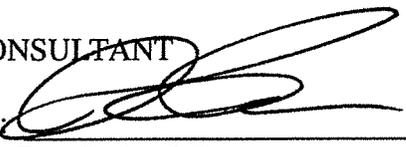
By: _____

Carol Benson

Its: Mayor

Date: _____

CONSULTANT

By:  _____

Dan Ervin, P.E.

Its: Vice President

Date: 8-24-16

Attest:

By:

Brenda L. Martinez
City Clerk

APPROVED AS TO FORM:

David A. Linehan
City Attorney

EXHIBIT A
Scope of Work
City of Black Diamond
Master Development Review Team

August 2016

Background

The Master Development Review Team (MDRT) is a dedicated team of personnel operating within the City of Black Diamond (City) to permit Master Planned Development projects within the City. The MDRT duties and obligations are described in the Development Agreements for the Villages and Lawson Hills, and in the MDRT Funding Agreement between Black Diamond and Yarrow Bay Communities. The MDRT is composed of City staff and contract staff.

RH2 Engineering, Inc., (RH2) is a contract member of the MDRT.

The MDRT is designed to be dynamic and flexible and evolve as needed to facilitate the City's role as a regulator in major development projects. The character and amount of work will vary, from time to time, and this Agreement implies a commitment by RH2 to maintain schedule and personnel flexibility and provide a superior level of professional service. The benchmark for performance evaluations will be established by the City, and these criteria may be subject to change as the MDRT evolves and as the development projects progress.

Some work tasks are anticipated, and those tasks are listed below. Other unanticipated tasks will emerge as the development projects mature and as the MDRT evolves. Unanticipated work will be performed under the most appropriate task listed below or authorized by letter agreement or email directive from the City.

The following tasks are not intended to imply chronological order, but rather serve as general categories of work:

Task 1 – Permit Review

1.1 Review permit applications and other applicant submittals in compliance with: 1) Villages and Lawson Hills Development Agreements, 2) City Municipal Code and Standards, 3) applicable state statutes and requirements, and 4) any other documents or regulations governing the work. It is anticipated that most of the permit submittals will be preliminary plats, site development permits or utility permits for water, sewer, stormwater and street work improvements. The permits and submittals will generally be reviewed for the following items, if applicable:

- Check the general plan layout for ease of interpretation and lack of ambiguity and comment on ways to improve layout if necessary;
- Check the completeness of the design for construction and inspection purposes;
- Perform a check of the supporting engineering calculations;
- Check for compliance with the governing agreement and the applicable minimum design standards, and check for compliance with the generally accepted engineering standard of care;

- Cross-check for conflicts and ambiguities in the design plans and with previous permit approvals;
- Perform simple value engineering and identify areas for design simplification or cost reduction;
- Cross check specifications for conflicts and ambiguities;
- Check reference materials for validity;
- Check record materials for completeness and the ability to retrace the design process in the future.

1.2 Comply with the schedules identified by the City.

1.3 Perform any other services as directed by the City.

Task 2 – Conceptual and Collaborative Design

2.1 Provide conceptual planning and design services for utilities and infrastructure in collaboration with City staff. Maintain a presence at the City’s design meetings to exert a positive influence on the maintainability of the improvements and the quality of the design. Search for and implement ways to improve plans and designs.

2.2 Provide primary design services as directed by the City, on behalf of the City.

2.3 Perform any other services as directed by the City.

Task 3 – Services During Construction

3.1 Provide on-call field inspection services to assist and supplement the experience and resources of City staff. Make periodic site visits at City discretion to maintain a working knowledge of project constraints, requirements, and character.

3.2 Perform any other services as directed by the City.

Task 4 – As-Built Review

4.1 Facilitate delivery of as-built construction records from the appropriate design teams to Public Works. Check records for compliance with published as-built requirements and accept or reject records as appropriate. Develop new as-built requirements, from time to time, as requested by the City in accordance with City goals and objectives. Check design team compliance with any Washington State professional engineering standards.

4.2 Perform any other services as directed by the City.

Task 5 – Testing, Acceptance, and Bonding

5.1 Provide facility and utility field testing services to assure that improvements meet the requirements of applicable approved construction plans.

5.2 Review and recommend acceptance or rejection (as appropriate) of the permitted utilities and facilities as required in the City’s Municipal Code.

- 5.3 Review and accept bonding amounts and certifications for performance bonds and maintenance bonds.
- 5.4 Perform any other services as directed by the City.

Task 6 – Compliance Tracking

- 6.1 Develop and maintain a tracking system to assure compliance with the Development Agreements. Track the following items, including but not limited to: water conservation, impervious area limitations, sewage interceptor capacity, traffic capacity and level of service, and phosphorus discharge.
- 6.2 Perform any other services as directed by the City.

Task 7 – Project Management

- 7.1 Attend meetings, as necessary and as directed by the City, to assure compliance with the Development Agreements and this Scope of Work.
- 7.2 Provide quality control and maintain quality assurance (QA/QC) procedures for RH2 work products. Meet and coordinate with MDRT members as necessary to maintain the QA/QC objectives, meet the schedule requirements and comply with the minimum design and review standards. Provide input as requested to the City regarding the work and progress of RH2 project staff.
- 7.3 Maintain complete and efficient working files of RH2's project activities.
- 7.4 Provide timely and accurate billing invoices and billing records for RH2 and for related subconsultant work.
- 7.5 Provide and maintain an administrative structure that allows efficient access to RH2's project staff members who work on MDRT projects. Maintain sufficient workload flexibility to meet the dynamic workload needs of the MPDs.
- 7.6 Perform any other services as directed by the City.

Task 8 – Engineering Report Review

- 8.1 Review reports and documents created by others for compliance with the Development Agreements and City Municipal Code.
- 8.2 Summarize the work and reports as necessary for presentation to other City departments, City staff or the public regarding reports in support of permits or other development actions.
- 8.3 Provide peer-review services through subconsultants as requested by the City.
- 8.4 Perform any other services as directed by the City.

Task 9 – Liaison with Other Departments

- 9.1 Meet with other City departments and regional agencies as requested by the City to share information and maintain a cooperative working environment.
- 9.2 Perform any other services as directed by the City.

Task 10 – Agency Coordination

- 10.1 Meet with other Agencies as directed by City and assist in developing collaborative and complimentary solutions to City/Regional issues (i.e. sewage conveyance, service area limits, sustainable permitting, etc.). Develop briefing materials for City staff as appropriate and provide data identifying lifecycle cost impacts, LOS impacts, regulatory impacts, and other pertinent data or evaluations requested by the City.

EXHIBIT C
RH2 ENGINEERING, INC.
2016 SCHEDULE OF RATES AND CHARGES

RATE LIST	RATE	UNIT
Professional I	\$137	\$/hr
Professional II	\$150	\$/hr
Professional III	\$159	\$/hr
Professional IV	\$170	\$/hr
Professional V	\$180	\$/hr
Professional VI	\$189	\$/hr
Professional VII	\$204	\$/hr
Professional VIII	\$213	\$/hr
Professional IX	\$213	\$/hr
Technician I	\$96	\$/hr
Technician II	\$101	\$/hr
Technician III	\$129	\$/hr
Technician IV	\$137	\$/hr
Administrative I	\$65	\$/hr
Administrative II	\$77	\$/hr
Administrative III	\$92	\$/hr
Administrative IV	\$108	\$/hr
Administrative V	\$128	\$/hr
CAD/GIS System	\$27.50	\$/hr
CAD Plots - Half Size	\$2.50	price per plot
CAD Plots - Full Size	\$10.00	price per plot
CAD Plots - Large	\$25.00	price per plot
Copies (bw) 8.5" X 11"	\$0.09	price per copy
Copies (bw) 8.5" X 14"	\$0.14	price per copy
Copies (bw) 11" X 17"	\$0.20	price per copy
Copies (color) 8.5" X 11"	\$0.90	price per copy
Copies (color) 8.5" X 14"	\$1.20	price per copy
Copies (color) 11" X 17"	\$2.00	price per copy
Technology Charge	2.50%	% of Direct Labor
Mileage	\$0.540	price per mile (or Current IRS Rate)
Subconsultants	15%	Cost +
Outside Services	at cost	

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute an amendment of the current contract with Perteet Inc. to serve as the environmental consultant to the MDRT Cost Impact - Developer funded per the Development Agreement Fund Source: -- CCD Black Diamond Partners LLC /Oakpointe LLC Timeline: immediately	Agenda Date: September 1, 2016	
	AB16-052	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
	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; Amendment to Perteet Inc. Consultant PSA Contract		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have requested this item to be placed on the agenda. This resolution is to extend the contract via Resolution 14-976, for traffic engineering services with Perteet Inc.. FISCAL NOTE: (Finance Department): Per the Funding Agreement, all cost associated with the contract will be reimbursed by the Developer.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-xxx (Clerk to assign number after adoption), authorizing the Mayor to execute a professional service agreement with Perteet, Inc. for the environmental consultant for the Master Development Review Team		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 1, 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 PERTEET INC. FOR ENVIRONMENTAL CONSULTANT SERVICES FOR THE MDRT

WHEREAS, on September 18, 2014 the Consultant and the City entered into a contract for ongoing services as described in the contract; and

WHEREAS, the contract will soon expire, and the City would like to continue the contract with the consultant;

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

Section 1. Authorize the mayor to enter into a contract for services as outlined in the contract between the Consultant and the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF SEPTEMBER, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND PERTEET, INC.
FOR MDRT ENVIRONMENTAL CONSULTING SERVICES**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **Perteet, Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 2707 Colby Avenue, Suite 900, Everett, WA 98201.

RECITALS

WHEREAS, the City does not have sufficient staff resources to provide environmental consulting and advisory services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from Oakpointe and an approved budget to fund the oversight, engineering review, inspections, and development agreement enforcement to assist the City with its regulatory role; and

WHEREAS, the City has previously contracted with Consultant to provide the City with the same or substantially similar services for the MDRT, and the City desires to continue working with Consultant on MDRT matters under the terms and conditions set forth herein; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

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

TERMS

I. Description of Work

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The environmental consulting services (including wetland evaluation and related studies and advisory services) to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on-call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, "Perteet, Inc., Schedule of 2016 Billing Rates," which is attached hereto and incorporated herein by this reference.

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

III. Relationship of Parties

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

IV. Duration of Work

This Agreement shall remain in effect from the date this Agreement is signed by both parties until such time as either party gives written notice of termination pursuant to Section V, below.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, 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.

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

VIII. Insurance

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

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

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

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

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

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

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit, and any insurance maintained by the City shall not contribute with it. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide

cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 3 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City, and Consultant assigns to the City all of Consultant's right, title, and interest in any such drawings, designs, reports, and documents. 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, and in no event may Consultant use less than reasonable care with respect to information provided to it by the City. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

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

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, then either party may file suit, the jurisdiction and venue of which lies exclusively in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, excluding its choice-of-law rules. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless

otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Crystal L. Donner, President
Perteet, Inc.
2707 Colby Ave., Suite 900
Everett, WA 98201

CITY:

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

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

XVII. Assignment

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

XVIII. Modification and Severability

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

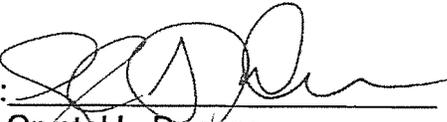
The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2016.

CONSULTANT

By: 
Crystal L. Donner
Its: President

Consultant: Perteet, Inc.

CITY OF BLACK DIAMOND

By: _____
Carol Benson, Mayor

APPROVED AS TO FORM:

David A. Linehan
City Attorney

ATTEST:

Brenda Martinez, City Clerk



Perteet

EXHIBIT A: GENERAL SCOPE OF WORK

The CONSULTANT agrees to perform certain consulting, design, studies, and/or advisory services for the CLIENT as follows:

Services shall include wetland evaluation and related professional services on an on-call basis as authorized under subsequent task orders prepared by the Consultant and approved by the City of Black Diamond.

Services authorized in Task Orders (Exhibit B) shall be provided pursuant to Perteet Standard Provisions and Billing Rates (Exhibit C).



Perteeet

EXHIBIT B: CITY OF BLACK DIAMOND ON-CALL TASK REQUEST TEMPLATE

Date:	City Staff Contact:
Task Name:	Phone:
Consultant Project No.:	Fax:
Consultant Contact Name:	
Consultant Phone:	
Consultant Fax:	

Scope of Task Request
Subtask 1:
Subtask 2:
*Budget Estimate: \$
Schedule:

Task Request Approval:	
City of Black Diamond:	
_____	_____
Written Name	Title
_____	_____
Signature	Date
Consultant:	
_____	_____
Written Name	Title
_____	_____
Signature	Date

*Estimated costs are billed on a time and materials basis, the Consultant shall notify the City should additional funds be necessary to complete the task order. Additional work beyond that which is ordered by the City shall require subsequent written authorization from the City.



Perteet

EXHIBIT C: PERTEET SCHEDULE OF 2016 BILLING RATES

<u>Engineering, Planning and Environmental Classifications</u>	<u>2016 Hourly Rate</u>
Principal	225.00
Senior Associate	190.00
Senior Engineer/Manager	175.00
Lead Engineer/Manager	150.00
Engineer III	130.00
Engineer II	110.00
Engineer I	95.00
Senior Planner/Manager	160.00
Lead Planner/Manager	140.00
Program Support Specialist III	115.00
Program Support Specialist II	105.00
Program Support Specialist I	80.00
Planner III	115.00
Planner II	105.00
Planner I	80.00
Senior Ecologist/Manager	160.00
Lead Ecologist/Manager	140.00
Ecologist III	115.00
Ecologist II	100.00
Ecologist I	80.00
Lead Technician/Designer	110.00
Technician III	95.00
Technician II	80.00
Technician I	70.00
Contract Administrator	95.00
Accountant	90.00
Graphics Specialist	90.00
Clerical	75.00

Emergency Response Rate (immediate response following event) @ 1.5 times hourly rate

Expert Witness Rates:

- Consulting & Preparation Time @ standard hourly rates
- Court Proceedings & Depositions (4 hour minimum) @ 1.5 times hourly rates



Direct Expenses

Rate

Living & travel expenses outside of service area	Cost plus 10 percent
Authorized Subconsultants	Cost plus 10 percent
Outside Services (printing, traffic counts, etc.)	Cost plus 10 percent
CADD Station	\$10.00 per hour
Project Controls / Primavera	\$10.00 per hour
GIS / Traffic Modeling	\$15.00 per hour
Color Copies	\$.80 each
Mileage	@ current federal rate

Survey Classifications

2016 Hourly Rate

Principal Surveyor	185.00
Survey Manager	140.00
Professional Land Surveyor II	120.00
Professional Land Surveyor I	115.00
Office Technician	100.00
Field Technician III	95.00
Field Technician II	80.00
Field Technician I	65.00
One Person Survey Crew	90.00
Two Person Survey Crew	165.00
Three Person Survey Crew	235.00

Direct Survey Expenses

Rate

Dual Frequency GPS Receiver	\$150.00 per unit per day
Robotic Total Station Data Collection System	\$100.00 per day
Digital Level	\$50.00 per day
Laser Scanner	\$65.00 per hour
Survey monuments & cases	Cost plus 10 percent



Perteeet

<u>Construction Classifications</u>	<u>2016 Hourly Rate</u>
Construction Engineering Supervisor	175.00
Construction Engineering Manager	165.00
Construction Manager	120.00
Assistant Construction Manager	120.00
Construction Engineer III	125.00
Construction Engineer II	110.00
Construction Engineer I	85.00
Senior Construction Observer	120.00
Construction Observer II	80.00
Construction Observer I	70.00
Senior Construction Technician	105.00
Construction Technician III	95.00
Construction Technician II	90.00
Construction Technician I	75.00

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute an amendment of the current contract with HWA GeoSciences to serve as the geotechnical consultant to the MDRT Cost Impact - Developer funded per the Development Agreement Fund Source: -- CCD Black Diamond Partners LLC /Oakpointe LLC Timeline: immediately	Agenda Date: September 1, 2016	
	AB16-053	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
Police – Chief Kiblinger		
Public Works – Seth Boettcher		
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 xxx; Amendment to HWA GeoSciences geotechnical Consultant PSA Contract		
SUMMARY STATEMENT: Councilmembers Deady and Edelman have requested this item to be placed on the agenda. This resolution is to extend the contract via Resolution 14-977, for geotechnical services with HWA GeoSciences. FISCAL NOTE: (Finance Department): Per the Funding Agreement, all cost associated with the contract will be reimbursed by the Developer.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 16-xxx (Clerk to assign number after adoption), authorizing the Mayor to execute a professional service agreement with HWA GeoSciences for the Geotechnical consultant for the Master Development Review Team.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 1, 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 HWA GEOSCIENCES FOR GEOTECHNICAL CONSULTANT SERVICES FOR THE MDRT

WHEREAS, on September 18, 2014 the Consultant and the City entered into a contract for ongoing services as described in the contract; and

WHEREAS, the contract will soon expire, and the City would like to continue the contract with the consultant;

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

Section 1. Authorize the mayor to enter into a contract for services as outlined in the contract between the Consultant and the City.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1ST DAY OF SEPTEMBER, 2016.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
FOR GEOTECHNICAL ENGINEERING SERVICES
BETWEEN THE CITY OF BLACK DIAMOND AND
HWA GEOSCIENCES INC.**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **HWA GEOSCIENCES Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington located and doing business at 21312 30th Drive SE, Suite 110, Bothell, WA 98021.

RECITALS

WHEREAS, the City does not have on sufficient staff resources to provide Geotechnical Engineering services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from YarrowBay and an approved budget to fund the oversight, engineering review, inspections, development agreement enforcement and assisting the City with its regulatory role; and

WHEREAS, the City has advertised for geotechnical engineering services and selected the best-qualified consultant for the work contemplated herein; and

WHEREAS, the Consultant previously entered into a contract to provide the City with same or similar services for the MDRT, and Consultant and City now desire to continue working together on MDRT matters under the terms and conditions set forth herein;

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

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is incorporated herein by this reference.

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

III. Relationship of Parties

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

IV. Duration of Work

This Agreement shall remain in effect from the date this Agreement is signed by both parties until such time as either party gives written notice of termination pursuant to Section V, below.

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

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

VI. Discrimination

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

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, 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.

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

VIII. Insurance

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

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

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

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

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

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

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit, and any insurance maintained by the City shall not contribute with it. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

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

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City, and Consultant assigns to the City all of Consultant's right, title, and interest in any such drawings, designs, reports, and documents. 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, and in no event may Consultant use less than reasonable care with respect to information provided to it by the City. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

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

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

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

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, then either party may file suit, the jurisdiction and venue of which lies exclusively in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, excluding its choice-of-law rules. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary.

Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Donald Huling, P.E.
HWA Geosciences Inc.
21312 30th Drive SE, Suite 110

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599

Bothell, WA 98021

24301 Roberts Drive
Black Diamond, WA 98010

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

XVII. Assignment

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

XVIII. Modification and Severability

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

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

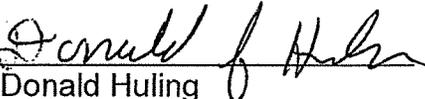
XIX. Entire Agreement

The written provisions and terms of this Agreement, together with Exhibit A, B and C attached hereto supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in Exhibits, A, B and C to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2016.

CONSULTANT

CITY OF BLACK DIAMOND

By: 
Donald Huling
Its: Vice President

By: _____
Carol Benson, Mayor

Consultant: HWA Geosciences

APPROVED AS TO FORM:

David A. Linehan
City Attorney

ATTEST:

Brenda Martinez
City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: September 1, 2016	AB16-054
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 David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Andy Williamson	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>Councilmembers Deady and Edelman have requested this item to be placed on the agenda.</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>		

- 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-? (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>
September 1, 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 1ST DAY OF SEPTEMBER, 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

By: _____
Carol Benson
Mayor

Date: _____

Attest:

By: _____
Brenda Martinez
City Clerk

APPROVED AS TO FORM:

By: _____
Carol A. Morris
City Attorney

DKS ASSOCIATES

By: Chris Maciejewski

Name: Chris Maciejewski

Title: Principal

Date: 3/30/16

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