

RESOLUTION NO. 09-605

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
AUTHORIZING THE SECOND SUPPLEMENT TO THE
PROFESSIONAL SERVICES AGREEMENT WITH
HAMMOND COLLIER WADE LIVINGSTONE FOR THE
RAILROAD AVENUE STREET IMPROVEMENT PROJECT**

WHEREAS, the parties to the contract felt that various action items and mutual responsibilities should be clarified before the design project closed out, and

WHEREAS, the proposed Second Supplemental Agreement has resolved some outstanding issues and shall assist in ensuring this project moves forward smoothly to and successfully;

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

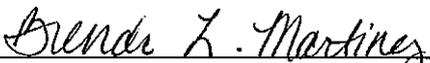
Section 1. The Mayor is authorized to execute a contract Supplement #2 with Hammond Collier Wade Livingstone attached to this Resolution as Exhibit A, for clarification of various items needed for completion of the Railroad Avenue Street Improvement design.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21ST DAY OF MAY, 2009.

CITY OF BLACK DIAMOND:


Howard Botts, Mayor

Attest:


Brenda L. Martinez, City Clerk

**SECOND SUPPLEMENT TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN CITY OF BLACK DIAMOND
& HAMMOND COLLIER WADE LIVINGSTONE
FOR RAILROAD AVENUE STREET IMPROVEMENT PROJECT**

1. Parties. This Second Supplement to the Professional Services Agreement for the Railroad Avenue Street Improvement Project is entered into between the City of Black Diamond ("City") and Hammond Collier Wade Livingstone ("Consultant"), collectively "the Parties."
2. Effect and Purpose. This Second Supplement is incorporated by reference into the Professional Services Agreement for the Railroad Avenue Street Improvement Project dated February 19 2008, as amended by the First Supplement to the Railroad Avenue Street Improvement Project dated November 20, 2008. The purpose of this Second Supplement is to clarify certain terms and expectations of the Parties under the existing Professional Services Agreement, reflecting the desire of the Parties to have this project move forward smoothly to satisfactory completion.
3. Effective date. This Second Supplement shall be effective as of the most recent date of the signature of the Parties appearing below.
4. Participation in public meetings and incorporating input. Consultant agrees, at no additional charge, to respond to changes requested by the City coming out of City meetings with the property owners. This feedback is expected and required from the City before June 30, 2009.
5. Tree to be saved. Consultant agrees, at no additional charge, to revise the design of street improvements in consultation with the Public Works Director to enable the preservation of a significant Douglas Fir tree located at station 2+75 on the east side of the Railroad Avenue, Black Diamond.
6. Mitigation of contaminated soil. Consultant agrees, at no additional charge, to draft an addition to the Scope of Work for the contract that will require the winning bidder to remove contaminated soil from the project area as required by the City and safely and lawfully dispose of such contaminated soil, and to provide acceptable fresh fill dirt as needed to replace the contaminated soil. To enable Consultant to draft this Scope of Work, the City agrees to promptly provide sufficient data to Consultant on the estimated amount of contaminated soil that needs to be removed.
7. Streetlights. Consultant agrees, at no extra charge, to properly incorporate placement of streetlights and technical details related to such placement into the plans and designs for the project. The City agrees to promptly identify the type(s) of streetlights intended to be installed for this project and to provide this information to Consultant no later than June 30, 2009.
8. Estimate of construction costs. Consultant agrees, at no extra charge, to provide within thirty days of execution of this Supplement an updated written estimate of total project construction costs, and to refine this estimate in January 2010 to reflect any significant changes in estimated costs.

9. Selection of concrete style. Consultant agrees, at no extra charge, to attend a Black Diamond Public Works Committee meeting to discuss the pros and cons of various types of stamped and stained concrete treatments and assist the City with writing a specification that is satisfactory to the committee and meets bid law requirements, and to include an alternative concrete treatment in the final contract specifications if directed to do so by the City.

10. City's redlines to be incorporated. Consultant agrees, at no extra charge, to respond to any changes or questions from the City after the City has reviewed the preliminary final design plans provided by Consultant, and to incorporate any changes requested by the City. The City agrees to provide all of its changes and questions to Consultant no later than June 30, 2009.

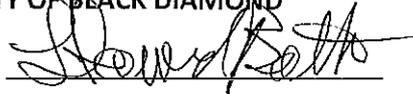
11. Property Acquisition. Consultant agrees, at no extra charge, to perform the following tasks related to purchase of property located at 32924 Railroad Avenue, parcel no. 1421069102, Black Diamond, Washington: draft a legal description of the partial take as described by the City, provide a survey and staking of the new boundaries of the property; record the survey as required by law.

12. Jones Lake Road. Consultant agrees, at no extra charge, to deliver plans and specifications for improvements to Jones Lake Road, as described in the Professional Services Agreement. These plans and specifications shall be delivered in an editable format (Microsoft Word and CAD).

13. Compensation schedule. Consultant agrees that the total amount of compensation as stipulated in the Professional Services Agreement and as amended in the First Supplement is one hundred fourteen thousand and six dollars (\$114,006). Consultant agrees that he has been paid sixty-eight thousand one hundred forty-three dollars and eighty-seven cents (\$68,143.87) to date. Within five business days of execution of this Second Supplement, the City agrees to pay Consultant thirty-four thousand four hundred sixty-one dollars and fifty-three cents (\$34,461.53), which will bring the amount of money paid to Consultant to ninety percent (90%) of the total compensation allowed under the Agreement. The Parties acknowledge and agree that the balance of ten percent (10%), or eleven thousand four hundred dollars and sixty cents (\$11,400.60) shall be paid to Consultant as invoices are submitted for the remaining work to be performed by Consultant related to bidding and award of a contract, with the balance not to be paid in full until completion of the bid tabulation expected in February 2010.

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

CITY OF BLACK DIAMOND

By: 

Print name: HOWARD BOITS

CONSULTANT

By: 

Print name: KENNETH GUNTHER

Title: Mayor

Date: 5-21-09

Title: Director of Civil Engineering

Date: 6-3-09