

RESOLUTION NO. 10-664

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A TECHNICAL SERVICES AGREEMENT WITH THE DEPARTMENT OF NATURAL RESOURCES AND PARKS, WATER AND LAND RESOURCES DIVISION FOR CONTINUED WATER MONITORING SERVICES THROUGHOUT THE CITY OF BLACK DIAMOND

WHEREAS, the City has identified the need for continued water monitoring services with the Department of Natural Resources and Parks, Water and Land Resources Division (WLRD);

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

Section 1. The Mayor is hereby authorized to execute a technical service agreement with the Department of Natural Resources and Parks, Water and Land Resources Division (WLRD) for the year 2010 for services outlined in the Attachment A, scope of work, in an amount not to exceed \$6,905.00.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 7TH DAY OF JANUARY, 2010.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

**Technical Services Agreement
Between King County and the City of Black Diamond
For Lake Monitoring Services**

This Agreement is made and entered into by King County, Washington, hereinafter referred to as "King County" and the City of Black Diamond, hereinafter referred to as the "City," collectively referred to as the "Parties," in order for King County to provide surface water-related technical services to the City.

The Parties mutually agree as follows:

I. Purpose

This Agreement between King County and the City provides the terms under which King County, through its Department of Natural Resources and Parks, Water and Land Resources Division (WLRD), will provide to the City technical services to support Black Diamond's surface water management-related activities. Services to be provided are described in Exhibit One, attached to this Agreement and incorporated herein and made a part hereof.

II. Management of Technical Services Provision

1. The provision of services under this Agreement will be managed for King County by the WLRD Intergovernmental Relations Coordinator or other staff as designated by King County and for Black Diamond by the Natural Resources Department Director or other staff as may be designated by the City ("Project Administrators").
2. In the event that a dispute arises under this Agreement, it shall be resolved by the Project Administrators. If the dispute cannot be resolved by the Project Administrators, it shall be referred for final resolution to the Division Director of King County WLRD and the Natural Resources Department Director of Black Diamond. This dispute resolution provision shall not be construed as prohibiting either Party from seeking enforcement of the terms of this Agreement, or relief or remedy from a breach of the terms of this Agreement, in law or in equity.

III. Responsibilities

A. King County

King County shall provide services as documented in Exhibit One.

B. Black Diamond

1. The City will provide appropriate staff to coordinate with King County on services to be provided under this Agreement and will ensure that appropriate municipal regulatory provisions are in place to authorize services provided through this Agreement.
2. The City will pay for service costs as outlined below.

IV. Costs and Billing

- A. The City will pay costs to provide such services, including staff time, benefits and equipment. As documented on Exhibit One, total service costs for 2010 are estimated at \$6,905.00.
- B. The Parties agree to the following regarding billing and payment:
 1. King County will invoice the City for services provided according to the schedule shown in Exhibit One.
 2. Payment to King County for submitted invoices will be made by the City within forty-five (45) days of receipt of invoices.

V. Effectiveness, Duration, Termination, and Amendment

- A. This Agreement is effective upon signature by both Parties and will remain in effect until March 31, 2011.
- B. This Agreement may be terminated by either Party upon 30 days written notice. In the event of termination, payment will be made by the City for work performed by the County to the date of termination.
- C. This Agreement may be amended only by written agreement of the Parties. Scopes of Work may be appended to this Agreement provided they are mutually agreed to by both Parties and within the terms and scope of this Agreement.
- D. This Agreement is not assignable by either Party, either in whole or in part.
- E. This Agreement is a complete expression of the intent of the Parties and any oral or written representations or understandings not incorporated herein are excluded. The parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such

through written approval by the parties which shall be attached to the original Agreement.

- F. Funding or obligation under this Agreement beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in this Agreement. Should such appropriation not be approved, this Agreement will terminate at the close of the current appropriation year.

VI. Indemnification and Hold Harmless

- A. King County shall protect, defend, indemnify, and save harmless the City, its officers, officials, and employees, while acting within the scope of their employment, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from King County's own negligent acts or omissions, or the negligent acts or omissions of King County's officials, officers, or employees.
- B. The City of Black Diamond shall protect, defend, indemnify, and save harmless King County, its officers, officials, and employees, while acting within the scope of their employment, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from the City of Black Diamond's own negligent acts or omissions, or the negligent acts or omissions of the City of Black Diamond's officials, officers or employees.
- C. Each Party agrees that its obligations under this Article VI extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.
- D. In the event that either Party incurs any judgment, award, and/or cost arising therefrom, including attorney's fees, to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the responsible Party to the extent of that Party's culpability.
- E. King County's sole reporting obligations under the terms of this Agreement are to provide the results of the sampling and laboratory analytical services to the City. The Parties agree that King County's reporting obligations do not extend to any third party, including any regulatory agency that may seek to obtain or require the results

of sampling or laboratory analyses. The Parties further agree that any reporting obligations that may exist with regard to third parties, including regulatory agencies, shall remain solely the responsibility of the City. King County shall have no liability for any failure to meet any existing reporting requirements and the City agrees to defend, indemnify and hold harmless King County for any damages, suits or claims by third parties related to the failure to report the results of the laboratory analyses.

- F. The indemnification provided for in this Article VI shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the 2nd day of February, 2010.

Approved as to Form

By: [Signature]
Title: Deputy Prosecuting Attorney

King County:

By: [Signature]
Title: King County Executive

Approved as to Form

By: _____
Title: City Attorney

City of Black Diamond:

By: [Signature]
Title: Mayor

Scope of Work 2010
City of Black Diamond support services

The King County Water and Land Resources Division will provide services through the Lake Stewardship Program (KC-LSP) to the City of Black Diamond for monitoring water quality and quantity on a seasonal basis in Lake Sawyer and for measuring inlet streams water quality from January through May and November - December.

Monitoring will include assuring the quality of the compiled data and providing pertinent information and analyses, reporting back to the city and citizen volunteers in a timely fashion and in a manner agreed upon by both parties, and providing technical assistance to the city and the public on questions concerning water quality results or problems.

Seasonal monitoring program:

Lake sampling will occur monthly from May through October for a total of six events during 2010. For four of the events, parameters will include Secchi transparency, and temperature, total phosphorus, total nitrogen, chlorophyll-a and pheophytin at 1m depth. For two events (May and August): Secchi + 3 depths (1m, middle and 1m from bottom) ---temperature, total phosphorus, orthophosphate, total nitrogen, nitrate-nitrite, ammonia, chlorophyll-a and pheophytin, total alkalinity, water color as measured by UV254).

Base-flow stream sampling will occur monthly from January to May, then resume in November - December for a total of 7 events. Parameters measured will include conductivity, total alkalinity, total suspended solids, total phosphorus, orthophosphate, temperature and a flow estimate.

Two storm events will also be sampled at 5 - 8 stations along the inlets if precipitation conditions are met. The same parameters will be measured as for the routine events, with the addition of an oil-and-grease measurement at the stations just above the inflows to the lake, as well as at the lake outlet.

KC-LSP will train designated citizen volunteers or city staff in the correct methods of data collection for water sample collection and storage, measurements of surface water temperature and Secchi transparency, and for observations on particles in the water, goose abundance, and gathering pertinent information on lake use.

The program will provide proper sampling equipment and will be responsible for repair or replacement if necessary. The program will also provide all sample bottles and will pick up filled bottles from the lake at a designated site to deliver to the KC Environmental Labs for analysis. Either stream samples will be delivered to county personnel living in Maple Valley, or KC staff will meet a volunteer at a half-way point for delivery to the King Street Center on the day after collection.

Database management, analysis, quality assurance, and reporting:

The program will enter all collected data from monitors and the KC Environmental Labs into a database to be made available to the city at the end of each year, analyze all data for consistency and general water quality conditions, pursue explanations for anomalies, look for trends or indicators of change in the parameters over time, and if requested make management suggestions to the city or citizens based upon the information.

A compilation of the data as part of the program's annual report will be delivered to city staff and cooperating citizen volunteers within a reasonable time after the end of each year, as well as e-files of the data in excel format. A presentation to the city council or appropriate staff may be made if requested, with time for discussion of pertinent issues.

Budget:

The charges set out below are based upon staff salaries, indirect operating charges, lab costs, equipment, materials, and mailing charges.

Lake Sawyer Monitoring – 2010

Seasonal and annual Monitoring – flat rate billing	\$
water quality, monthly May-October	2,775.00
inlet streams, monthly Jan-May, Nov-Dec	2,750.00
subtotal	5,525.00
Monitoring for two inlet storm events, includes oil-grease – cost-basis billing	1,380.00
Estimated Total	\$6,905.00

Seasonal monitoring will be billed on a flat rate basis, to be paid annually by Black Diamond upon receipt of an invoice from King County in the fourth quarter of 2009. Billing for monitoring for two storm events will also be annual, but will be based on costs incurred, as storm events are not predictable and rainfall criteria might not be met.