

RESOLUTION NO. 10-714

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING A PROFESSIONAL SERVICES
AGREEMENT WITH PARAMETRIX FOR THE GREEN
VALLEY ROAD TRAFFIC CALMING STUDY

WHEREAS, the City of Black Diamond has selected Parametrix to provide transportation related consulting services for the City; and

WHEREAS, the City Council, by Ordinance No. 10-946, approved The Villages, Master Planned Development and condition of approval 33 a. and by Ordinance No. 10-947, approved Lawson Hills, Master Planned Development and condition 29 which requires the City to commission a study to determine if there are ways to discourage or limit Master Planned Development traffic from using Green Valley Road; and

WHEREAS, The Villages and Lawson Hills Master Planned Developments applicants will cover the cost of the Green Valley Road Traffic Calming Study;

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

Section 1. The Mayor is hereby authorized to execute a Professional Services Agreement with Parametrix for the Green Valley Road Traffic Calming Study in the form substantially attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21ST DAY OF OCTOBER, 2010.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated October 21, 2010 and 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: Seth Boettcher, Public Works Director

Phone: 360-886-2560 Fax: 360-886-2592

and

PARAMETRIX ("Consultant")

411 108th Avenue NE, Suite 1800

Bellevue, WA 98004

Contact: John Perlic, PE

Phone: (425) 458-6343 Fax: (425) 458-6363

Tax Id No.: 91-0914810

for professional services in connection with the following project:

The Green Valley Road Traffic Calming study to determine if additional measures are necessary to discourage traffic on Green Valley Road (the "Project").

TERMS AND CONDITIONS

1. Services by Consultant

1.1 Consultant shall perform the services 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 Consultant shall provide the City with a final report by November 5, 2010.

2.2 Time is of the essence as to the work provided in the Scope of Work. Consultant 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 execution of this agreement.

3. Compensation

TIME AND MATERIALS NOT TO EXCEED. Compensation for the services provided in the Scope of Work shall not exceed \$19,720.00 without the written authorization of the City and will be based on the Budget Detail Report of billing rates and reimbursable expenses attached hereto as Exhibit "B."

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. Suspension and Termination of Agreement

6.1 The City reserves the right to terminate or suspend this Agreement at any time, without cause, by giving Consultant notice in writing ten (10) days prior to the 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.

6.2 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.

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. 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 and volunteers 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. *Please see attached.*

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.

Additional sentence added at the end of Section 9.1:

RMP
kel

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.

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.

13. Notice

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

City: City Administrator
City of Black Diamond
P.O. Box 599
Black Diamond, WA 98010
Fax: 360-886-2592

With a copy to: Chris Bacha
Kenyon Disend, PLLC
11 Front Street South
Issaquah, WA 98027
Fax: 425-392-7071

Consultant: John Perlic
Parametrix
411 108th Avenue NE, Suite 1800
Bellevue, WA 98004
Fax: 425-458-6363

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. Venue shall be 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 City Administrator for the City, or his designee, 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.

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.

CITY OF BLACK DIAMOND

By: Rebecca Olness
Rebecca Olness

Its: Mayor

Date: October 22, 2010

CONSULTANT PARAMETRIX, INC.

By: Robert M. Rosain
Printed Name: ROBERT M. ROSAIN

Its: OPERATIONS MGR

Date: 10.27.10

Attest:

By: Brenda L. Martinez
Brenda L. Martinez
City Clerk

EXHIBIT “A”

SCOPE OF WORK

City of Black Diamond Green Valley Road Traffic Calming

Task 1 – Project Management and Meetings

Measurable Task Objective

To provide ongoing project management support and assist City of Black Diamond staff with planning and attending meetings with the Green Valley Road Review Committee and King County

Approach

A brief project management plan documenting the project scope, schedule, budget, project team, and communication plan will be prepared. Monthly invoices will be prepared to document budget and schedule status.

The task also includes preparation and attendance at a coordination meeting with City of Black Diamond staff, and a presentation meeting for the Green Valley Road Review committee. The suggested meeting sequence and topics would be:

City of Black Diamond staff meeting to discuss existing roadway conditions and initial traffic calming concepts after the initial road inventory has been completed to refine the tasks and work product expected. Meet with the Green Valley Road Review committee to present the travel time results, road inventory, traffic calming recommendations and the expected effect of the measures recommended.

Assumptions

- Preparation and attendance at 1 meeting with the City of Black Diamond
- Preparation and attendance at 1 meeting with the Green Valley Road Review Committee

Deliverables

- Meeting agendas and notes for all meetings
- Handouts or presentation materials for all meetings
- Monthly invoices and progress reports

Task 2 – Existing Roadway Conditions Inventory

Measurable Task Objectives

To document the existing physical conditions of Green Valley Road

SCOPE OF WORK (CONTINUED)

Approach

Parametrix staff will conduct a field review of the Green Valley Road corridor and record pavement widths, tight radius curves with reduced speed warning signs, and other visible features affecting traffic speed or safety. This will include preparation of a photo inventory of locations where existing physical features have a traffic calming effect, and locations where no such features exist. This task will also include travel time surveys to document the competitive travel time of using Green Valley Road to reach Auburn compared to other routes

Deliverables

Section of the final Technical Memorandum

Task 3 – Identify and Evaluate Traffic Calming Strategies

Measurable Task Objective

To identify a wide range of traffic calming strategies to decrease travel speeds and total traffic volumes on the roadway

Approach

A list of traffic calming strategies will be developed and evaluated. Approximately 10 different strategies focusing on reducing traffic volumes from the Black Diamond Master Plan Developments (MPD's) on Green Valley Road will be evaluated. Each strategy will be described and categorized for its ability to:

- Decrease traffic volumes
- Decrease travel speeds
- Other implementation considerations
- Appropriateness for use on Green Valley Road

A summary evaluation matrix will be prepared to document the information above. Based on this information, we will work with City of Black Diamond staff to prepare a final recommendation for consideration by the Green Valley Road Review Committee.

Deliverables

Section of the final Technical Memorandum and summary evaluation matrix for use in the City Staff and Committee meetings

SCOPE OF WORK (CONTINUED)

Task 4 – Prepare Recommendation and Documentation

Measurable Task Objective

To work with City of Black Diamond staff to prepare a final recommendation to present to the Green Valley Road Review Committee

Approach

A list of final recommendations will be prepared and presented to the Green Valley Road Review Committee for review and consideration. The draft technical memorandum will be completed by November 5th, and will be finalized within one week of receiving comments from City of Black Diamond staff.

Deliverables

Draft and final technical memorandum

411 108th AVENUE NE, SUITE 1800
BELLEVUE, WA 98004-5571
T. 425.458.6200 F. 425.458.6363
www.parametrix.com

COMMUNITY DEVELOP.

OCT 28 2010

RECEIVED

TRANSMITTAL

To: **Seth Boettcher**
Public Works Director
City of Black Diamond
PO Box 599
Black Diamond, WA 98010

Date: **October 27, 2010**
Project Number: **554-3043-011**
Project Name: **Green Valley Road Traffic Calming Study**

These are: PER YOUR REQUEST
 FOR YOUR INFORMATION
 FOR YOUR REVIEW AND APPROVAL
 FOR YOUR FILES
 FOR YOUR ACTION

Sent Via: U.S. MAIL
 EMAIL
 GROUND SERVICE
 EXPRESS OVERNIGHT

EXPRESS SECOND DAY
 COURIER
 HAND DELIVERY/PICK UP
 INTEROFFICE MAIL

We are transmitting the following materials:

In follow up to a telephone conversation I had with Scott in your office, we modified the attached Professional Services Agreement for the above-referenced project, and are returning two signed originals, with the change initialed. Once you've reviewed and if it meets with your approval, please initial where flagged and return an original to my attention.

Comments:

If you have any questions or require additional information, please contact me directly at 425/458-6361, or via email at johnson@parametrix.com.

Thank you.

Sincerely,



Jean N. Johnson, Sr. Contracts Administrator

cc: John Perlic
Michele Chase
Contract files