

RESOLUTION NO. 12-818

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 KING COUNTY WATER AND LAND RESOURCES IN THE DEVELOPMENT OF AN INTEGRATED AQUATIC WEEDS MANAGEMENT PLAN FOR LAKE SAWYER AND POTENTIAL WATER QUALITY SAMPLING SERVICES, CONTINGENT ON CITY COUNCIL REQUEST AND APPROVAL THROUGH 2016

WHEREAS, in 2011, City Staff, in collaboration with King County Water and Land Resources Staff, developed an application for acquiring funds in order to complete an Aquatic Weeds Vegetation Management Plan for the waters of Lake Sawyer in Black Diamond, WA; and

WHEREAS, in 2012, City staff received an award letter for \$25,000 from the Washington State Department of Ecology for funds to be used towards the development of said plan and the Black Diamond City Council adopted Resolution 12-796 accepting these funds; and

WHEREAS, this plan will help City staff, as well as the citizens of Black Diamond look at alternatives and costs associated with controlling aquatic weeds in Lake Sawyer, therefore helping improve water quality and improving boating opportunities on the lake; and

WHEREAS, King County Water and Land Resources and City Staff have developed an agreement for technical services to be provided by King County Water and Land Resources staff, totaling \$31,516.27; and

WHEREAS, the Technical Services Agreement allows the City the option of requesting additional water quality sampling services as it has received in the past from King County Water and Land Resources Division upon request and authorization by the City Council through the year 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 a Technical Services Agreement as attached hereto as Exhibit A with King County Water and Land Services Division for the development of an Integrated Aquatic Vegetation Management Plan and potential future water quality sampling services, contingent on request and approval by the Black Diamond City Council through 2016.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A SPECIAL MEETING THEREOF, THIS 9TH DAY OF JULY, 2012.

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**

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 as of the execution date of this Agreement are described in Exhibit One, attached to this Agreement and incorporated herein and made a part hereof. This Agreement also provides a mechanism whereby the Parties may agree upon additional services in the future, upon request by the City.

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 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 brought to the Project Administrators for resolution. If the dispute cannot be resolved by the Project Administrators, it shall be referred to the Division Director of King County WLRD and the Natural Resources Department Director of Black Diamond for resolution. 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 shall provide services as described in Exhibit One for the years 2012-2014.
- B. For any additional services that Black Diamond requests and WLRD agrees to provide, King County and Black Diamond will prepare a mutually agreed upon scope of work outlining tasks, timelines, and estimated costs. Scopes will be signed by an authorized City official to indicate the City's authorization for services, and will be signed by the King County Project Administrator to indicate acceptance of the additional tasks, timelines, and estimated costs. Such authorized scopes of work shall constitute addenda to this Agreement as further described in V.C. below.
- C. The City will provide appropriate staff to coordinate with King County on services to be provided under this Agreement.
- D. The City will pay for service costs as provided in IV. below.

IV. Costs and Billing

- A. The City will pay actual costs to provide services, including staff time, benefits and equipment for the services described in Exhibit One, and for any additional authorized scopes of work, as described in III.B. above.
- B. King County will invoice the City for services provided per Exhibit One and any other authorized scopes of work on a quarterly basis.
- C. Payment to King County for submitted invoices will be made by the City within forty-five (45) days of receipt of invoices.
- D. Services to be provided under this Agreement will not exceed \$30,000 per year, unless agreed to by the Parties in a written amendment to this Agreement.

V. Effectiveness, Duration, Termination, and Amendment

- A. This Agreement is effective upon signature by both Parties and will remain in effect until December 31, 2016.
- 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 prior to the date of termination.

- C. This Agreement may be amended, altered, or clarified only by written agreement of the Parties. Notwithstanding the foregoing, addenda to this Agreement, as described in III.B. above, shall be incorporated into this Agreement and made a part hereof upon execution by the WLRD Project Administrator and (position of the authorized City official). All addenda are expressly subject to the condition described in V.F. below
- 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 appropriation year that last funded these activities.

VI. Indemnification and Hold Harmless

- A. To the maximum extent allowable by law, 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, in performing its obligations pursuant to this Agreement.
- B. To the maximum extent allowable by law, 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, in performing its obligations pursuant to this Agreement.

- 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 to the City the results of any sampling and laboratory analytical services provided per authorized scopes of work. 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 indemnifications 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 10th
day of July, 2012.

Approved as to Form

By: _____

Title: Deputy Prosecuting Attorney

King County:

By: _____

Title: King County Executive

Approved as to Form

By: _____

Title: City Attorney

City of Black Diamond:

By: _____

Title: Mayor