

RESOLUTION NO. 13-891

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE AN
INTERLOCAL AGREEMENT WITH THE CITY OF AUBURN
FOR POLICE IT SERVICES**

WHEREAS, the Black Diamond Police Department seeks professional information technology services; and

WHEREAS, the City of Auburn utilizes most, if not all, of the same operating systems and has on-site staff who are specifically familiar with their functions, capabilities, and maintenance; and

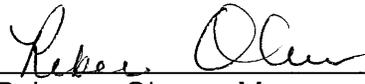
WHEREAS, the City of Auburn has the requisite skills, resources, and experience necessary to provide such services and is willing and agreeable to provide such services;

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 an Interlocal Agreement between the City of Auburn and the City of Black Diamond for Police Information Services Technology in the form substantially attached hereto as Exhibit A.

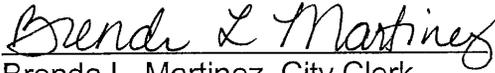
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3RD DAY OF OCTOBER, 2013.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

EXHIBIT A

CITY OF AUBURN – CITY OF Black Diamond INTERLOCAL AGREEMENT FOR INFORMATION SERVICES TECHNOLOGY

THIS INTERLOCAL AGREEMENT made and entered into, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the 16th day of September, 2013, by and between the CITY OF AUBURN, a municipal corporation of the State of Washington (hereinafter referred to as "Auburn"), and the CITY OF Black Diamond, a municipal corporation of the State of Washington (hereinafter referred to as "Black Diamond"),

WITNESSETH:

WHEREAS, Black Diamond seeks professional information technology ("IT") services; and

WHEREAS, Auburn has the requisite skills, resources and experience necessary to provide such services and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, the parties hereto do hereby agree as follows:

1. SCOPE OF SERVICES

Auburn agrees to perform for Black Diamond, in a good and professional manner the tasks specific to support the Black Diamond Police Department ("BDPD") described on Exhibit A which is attached hereto and by this reference made a part of this Agreement. (The tasks described on Exhibit A shall be individually referred to as a "task," and collectively referred to as the "services.") Auburn shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with Black Diamond. Auburn shall perform the services described in Exhibit A which is attached hereto and by this reference made a part of this Agreement.

2. AMENDMENT REQUIRED FOR ADDITIONAL SERVICES

In the event additional IT services are required by Black Diamond beyond those specified in Exhibit A and the compensation listed in this Agreement, and further provided that Auburn has the time and resources to provide such additional services and is willing to provide such services, a contract amendment shall be set forth in writing and shall be executed by the respective parties prior to Auburn's performance of the additional IT services, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an Amendment for additional services, such Amendment shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such Amendment were a part of this

Agreement as originally executed. The performance of services pursuant to an Amendment shall be subject to the terms and conditions of this Agreement except where the Amendment provides to the contrary, in which case the terms and conditions of any such Amendment shall control. In all other respects, any Amendment shall supplement and be construed in accordance with the terms and conditions of this Agreement.

3. PERFORMANCE OF ADDITIONAL SERVICES PRIOR TO EXECUTION OF AN AMENDMENT

The parties hereby agree that situations may arise in which IT services other than those described on Exhibit A are desired by Black Diamond and the time period for the completion of such services makes the execution of Amendment impractical prior to the commencement of Auburn's performance of the requested services. Auburn hereby agrees that it shall perform such services upon the request of an authorized representative of Black Diamond at a rate of compensation to be mutually negotiated in connection therewith. Any such additional IT services shall be memorialized in a written amendment in accordance with Section 2 of this Agreement. The invoice procedure for any such additional services shall be as described in Section 6 of this Agreement.

4. Black Diamond'S RESPONSIBILITIES

Black Diamond shall do the following in a timely manner so as not to delay the services of Auburn:

- a. Designate in writing a person to act as Black Diamond's representative with respect to the services described in Exhibit A. Black Diamond's designee shall have complete authority to transmit instructions, receive information, interpret and define Black Diamond's policies and decisions with respect to the services, except in the event of an emergency as described in Exhibit A.
- b. Furnish Auburn with all information, criteria, objectives, schedules and standards for the services provided for herein.
- c. Arrange for access to the property or facilities as required for Auburn to perform the services provided for herein.
- d. Examine and evaluate all studies, reports, memoranda, plans, sketches, and other documents prepared by Auburn and render decisions regarding such documents in a timely manner to prevent delay of the services.including passwords, facility access and data systems to which Black Diamond is requesting support. Auburn shall use "remote access" technology to support Black Diamond systems where possible to limit onsite costs. Such examples include Firewall, router, computer, Domain controller, active directory, Spillman and secured/ encryted access to systems designated by Black Diamond to be supported by Auburn.

f. BDPD must complete, and authorize necessary state documents related to "Agency Authorization" designating City of Auburn as IT Technical contact and complete a "Management Control Agreement" filed with WSP that will allow Auburn IT staff to work with CJIS and ACCESS information including SSID, Mneumonics and ORI information to support the system.

5. ACCEPTABLE STANDARDS

Auburn shall be responsible to provide, in connection with the services contemplated in this Agreement, work products and services of a quality and professional standard acceptable to Black Diamond.

6. COMPENSATION

Compensation for Auburn's performance of the services provided for herein are attached as Exhibit B. Annual sum shall be increased January 1, 2014 with advance notice given to Black Diamond, and each January 1 thereafter, by an amount equal to 2% or the most recent Seattle-Tacoma-Bremerton Consumer Price Index - U whichever is greater for the term of this Agreement.

Auburn shall submit to Black Diamond a monthly invoice and Black Diamond shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to Auburn thereafter in the normal course, subject to any conditions or provisions in this Agreement or Amendment.

7. TIME FOR PERFORMANCE AND TERM OF AGREEMENT

Auburn shall perform the services provided for herein in accordance with the direction and scheduling provided in Exhibit A, unless otherwise agreed to in writing by the parties. The initial term of this agreement shall be twelve (12) months and may be extended thereafter by written agreement of the Parties 60 days prior to term end. It is provided, however, that either party may cancel this Agreement upon sixty (60) days written notice to the other party.

8. OWNERSHIP AND USE OF DOCUMENTS

All documents, reports, memoranda, diagrams, sketches, plans, design calculations, working drawings and any other materials created or otherwise prepared by Auburn as part of its performance of this Agreement (the "Work Products") shall be owned by and become the property of Black Diamond, and may be used by Black Diamond for any purpose beneficial to Black Diamond. Public records requests shall be the responsibility of Black Diamond, however Auburn may assist at Black Diamond request at hourly rates provided under exhibit B for onsite support.

9. RECORDS INSPECTION AND AUDIT

All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by Black Diamond for a period of up to three (3) years from the final payment for work performed under this Agreement.

10. CONTINUATION OF PERFORMANCE

In the event that any dispute or conflict arises between the parties while this Contract is in effect, Auburn agrees that, notwithstanding such dispute or conflict, Auburn shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities. Provided that if Black Diamond fails to pay for the services provided by Auburn, Auburn can cease providing such services until payment is made.

11. ADMINISTRATION OF AGREEMENT

This Agreement shall be administered by Ron Tiedeman, Innovation & Technology Director or designee on behalf of Auburn, and by Mark E. Hoppen, City Administrator or designee on behalf of Black Diamond. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

CITY OF AUBURN
Innovation & Technology
Ron Tiedeman
25 W Main St
Auburn, WA 98001-4998
Phone: 253-288-3160
Fax: 253-804-3116
E-mail: rtiedeman@auburnwa.gov

CITY OF BLACK DIAMOND
City Administration
Mark E. Hoppen
24301 Roberts Drive
Black Diamond, WA 98010
(360) 886-5700

mhoppen@ci.blackdiamond.wa.us

12. NOTICES

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above.

Either party may change his, her or its address by giving notice in writing, stating

his, her or its new address, to the other party, pursuant to the procedure set forth above.

13. INSURANCE

Black Diamond shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Black Diamond's membership in a municipal self-insurance pool, including evidence of limits of coverages, exclusions and limits of liability satisfactory to Auburn.

Auburn shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Auburn's membership in a municipal self-insurance pool, including evidence of limits of coverages, exclusions and limits of liability satisfactory to Black Diamond.

14. INDEMNIFICATION

a. Black Diamond shall indemnify and hold Auburn and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against Auburn arising out of, in connection with, or incident to the execution of this Agreement and/or Black Diamond's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of Auburn, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of Black Diamond; and provided further, that nothing herein shall require Black Diamond to hold harmless or defend Auburn, its agents, employees and/or officers from any claims arising from the sole negligence of Auburn, its agents, employees, and/or officers. No liability shall attach to Auburn by reason of entering into this Agreement except as expressly provided herein.

b. Auburn shall indemnify and hold Black Diamond and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against Black Diamond arising out of, in connection with, or incident to the execution of this Agreement and/or Auburn's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of Black Diamond, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the

negligence of Auburn; and provided further, that nothing herein shall require Auburn to hold harmless or defend Black Diamond, its agents, employees and/or officers from any claims arising from the sole negligence of Black Diamond, its agents, employees, and/or officers. No liability shall attach to Black Diamond by reason of entering into this Agreement except as expressly provided herein.

15. WAIVER OF SUBROGATION

Black Diamond and Auburn hereby mutually release each other from liability and waive all right of recovery against each other for any loss caused by fire or other perils which can be insured against under fire insurance contracts including any extended coverage endorsements thereto which are customarily available from time to time in the State of Washington, provided, that this paragraph shall be inapplicable to the extent that it would have the effect of invalidating any insurance coverage of Black Diamond or Auburn.

16. COMPLIANCE WITH REGULATIONS AND LAWS

The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

17. ASSIGNMENT

The parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other party.

18. ATTORNEYS' FEES

If either party shall be required to bring any action to enforce any provision of this Agreement, or shall be required to defend any action brought by the other party with respect to this Agreement, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

19. NONDISCRIMINATION

Each of the parties, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.

20. MISCELLANEOUS

a. All of the covenants, conditions and agreements in this Agreement shall extend to and bind the legal successors and assigns of the parties hereto.

b. This Agreement shall be deemed to be made and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in King County, Washington.

c. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

d. Unless otherwise specifically provided herein, no separate legal entity is created hereby, as each of the parties is contracting in its capacity as a municipal corporation of the State of Washington. The identity of the parties hereto is as set forth hereinabove.

e. The performances of the duties of the parties provided hereby shall be done in accordance with standard operating procedures and customary practices of the parties. Semi-annual operational review and service meetings shall be held with representatives from both cities to review and discuss service and support delivery.

f. No provision of this Agreement shall relieve either party of its public agency obligations and or responsibilities imposed by law.

g. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time either party shall have the right to terminate the Agreement.

h. This Agreement constitutes the entire agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

i. Copies of this Agreement shall be listed by the parties on their websites as provided for in RCW 39.34.040.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AUBURN



Peter B. Lewis
Auburn Mayor

CITY OF Black Diamond



Rebecca Olness
Black Diamond Mayor

Attest:



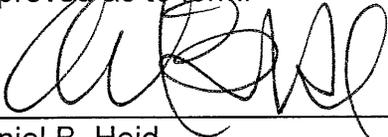
 Danielle Daskam,
Auburn City Clerk

Attest:



Brenda L. Martinez,
Black Diamond City Clerk

Approved as to form:



Daniel B. Heid
Auburn City Attorney

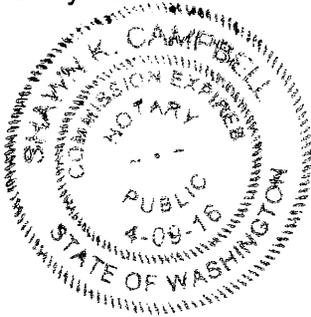
Approved as to form:

Print Name: _____
Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

ON THIS 16th day of September, ²⁰¹³ 2011, before me personally appeared Dete Lewis and _____ to me known to be the Mayor and _____ of The City of Auburn, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

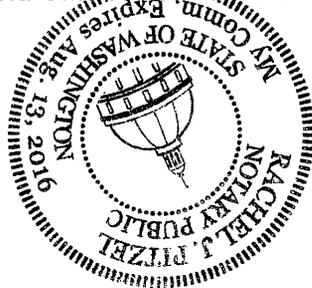


Shawn K. Campbell
NOTARY PUBLIC in and for the State of Washington, residing at King County
My Commission Expires: 4/9/2016

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

ON THIS 9th day of October, ²⁰¹³ 2011, before me personally appeared Rebecca Olness and _____ to me known to be the Mayor and _____ of the City of Black Diamond, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and the seat of said municipal corporation is affixed hereon.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



Rachel J. Pizzei
NOTARY PUBLIC in and for the State of Washington, residing at Blk. Diamond
My Commission Expires: 8/13/16

**EXHIBIT A
SCOPE OF SERVICES**

Services Provided:

- General network and desktop support
- Application and software end user support
- Operating system patch management
- Technical recommendations

Requesting support:

All requests for service should be emailed to helpdesk@auburnwa.gov. The request will be forwarded to City of Auburn technical staff for resolution. Persons authorized to request support on a non-emergency basis are City of Black Diamond Police Department staff and designees.

Service levels:

For requests e-mailed Monday through Friday from 7:00 am to 5:00 pm, we will try to respond within 30 minutes. During high call volumes, we will assist you as soon as possible.

With authorization of Mayor, City Administrator or Police Chief, support outside regular business hours will be provided on an emergency basis. If you need an immediate response during off hours and have the appropriate authorization, please email helpdesk@auburnwa.gov with the name of authorizing person and nature of issue or call 253-876-1947. Your issue will be forwarded to the on-call technician for resolution.

Service Limitations:

- City of Auburn will assist and provide recommendations on network security but security remains the responsibility of City of Black Diamond.
- City of Auburn will document, and present information relevant to technical audits however compliance will be the responsibility of Black Diamond, including CJIS and ACCESS Audits.
- City of Auburn will assist and provide recommendations on hardware and software purchases. All hardware and software purchases are the responsibility of City of Black Diamond.
- Unless otherwise specified via addendum or SOW "additional services" identified below will be the responsibility of Black Diamond.

Additional Services:

Current IT support is based on needs and requests of Black Diamond Police. City of Auburn may provide City-wide support based on same hourly rate, however all non-police department support will be in addition to the basic services and support payment. Black Diamond representatives may negotiate to add interim city-wide support services or additional services to this ILA through an addendum process in the event additional ongoing services are needed while both parties seek appropriate Mayor and Council approval.

Additional services include but are not limited to:

GIS Services

Spillman hosting and support

Licensing Support : Netmotion and Virus Protection

Web Application and Design Services

Publishing and Design Services

Multimedia/ Film Services

Billing:

All service will be billed monthly according to Exhibit B. Services that are billed on an hourly basis will include a brief description of the service and the department where the service was performed. Monthly charges for service are based on an estimated 100 helpdesk requests annually. In the event annual helpdesk requests exceed 100 tickets, City of Black Diamond agrees to negotiate these additional services which may include mutually agreed adjustments to monthly service charges.

**EXHIBIT B
COST OF SERVICES**

Support Function	Operating Hours	Billing rate	Monthly cost
Project Specific one-time start-up Fees: Evaluation of current needs identifies upfront hours of support to stabilize Police services, software and systems. We estimate approximately 20-30 hours of onsite work to accomplish specific requests in a timely fashion. Estimate includes: Firewall and VPN configuration, Vehicle MDC reimaging, profile updates, State Link activation, and network administration	Staff will coordinate with Black Diamond on appropriate times to accomplish work onsite. Billing will be based on time spent, and billed for actual hours as they occur.	\$1500.00 - \$2250.00 plus mileage. First month will be prorated based on completion of 20-30 hours.	n/a
General Network and desktop maintenance and support including operating system patch management, virus system software management, general troubleshooting and problem resolution that can be via remote access/phone and minimal Black Diamond Auburn office visits where deemed possible allowing equipment drop off and minimal hands on configuration support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$400.00 / month effective October 1, 2013 and monthly thereafter	\$400.00
Network and desktop repair and maintenance that require onsite support.	M - F, 7 a.m. - 5 p.m. excluding holidays	\$75.00 / hour plus mileage based on IRS standard mileage rate	Per hour as required
All support responses by City of Auburn technical support staff. Note: COA technical support staff will not respond without authorization from City of Black Diamond Mayor, Police Chief or City Administrator.	Non business hours, afterhours, emergency response	\$110.00 / hour with one hour minimum plus mileage based on IRS standard mileage rate	Per incident as required
Netmotion Client Software	n/a	n/a	Per event
Virus Protection Software	n/a	n/a	Yearly

