

RESOLUTION NO. 15-1021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH STANTEC CONSULTING SERVICES INC. FOR THE DESIGN ENGINEERING OF THE DOWNTOWN AC WATER MAIN REPLACEMENT & LOOPING PROJECT

WHEREAS, the City received a \$225,000 King County Community Development Block Grant (CDBG) for the Downtown AC Water Main Replacement & Looping project; and

WHEREAS, private firms on the City's Municipal Research Services Center consultant roster providing water main engineering design services were invited to submit Statements of Qualifications for review and consideration; and

WHEREAS, after two firms that submitted their qualifications were interviewed by a panel consisting of City staff and one King County CDBG Project Manager, the panel unanimously recommended Stantec Consulting Services Inc. as the firm most capable of providing the design engineering for this project; and

WHEREAS, City staff has negotiated an acceptable scope of work and the City Attorney has reviewed the agreement;

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

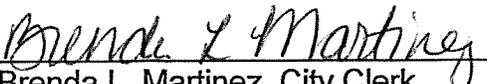
Section 1. The Mayor is hereby authorized to execute a Professional Services Agreement with Stantec Consulting Services Inc. to provide design engineering services for the Downtown AC Water Main Replacement & Looping project, substantially in the form attached hereto.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19<sup>TH</sup> DAY OF MARCH, 2015.

CITY OF BLACK DIAMOND:

  
\_\_\_\_\_  
Carol Benson, Mayor

Attest:

  
\_\_\_\_\_  
Brenda L. Martinez, City Clerk



**CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT**

THIS Agreement is made effective as of the 20<sup>th</sup> day of March, 2015, by and between the City of Black Diamond, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF BLACK DIAMOND, WASHINGTON (hereinafter the "CITY")  
PO Box 599  
24301 Roberts Drive  
Black Diamond, WA 98010  
Contact: Mayor Carol Benson Phone: 360-886-5700 Fax: 360-886-2592

and STANTEC CONSULTING SERVICES, INC., a corporation, organized under the laws of the State of New York, doing business at:

STANTEC CONSULTING SERVICES, INC. (hereinafter the "CONSULTANT")  
11130 NE 33<sup>rd</sup> Place, Suite 200  
Bellevue, WA 98004

Contact: Laurie Fulton Phone: (425) 289-7344 Fax: (425) 869-1190

for professional services in connection with the following Project:

BLACK DIAMOND DOWNTOWN AC WATER MAIN REPLACEMENT AND LOOPING PROJECT

**TERMS AND CONDITIONS**

**1. Services by Consultant.**

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. 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 the Agreement.

**2. Schedule of Work.**

A. Consultant shall perform the services described in Exhibit A in accordance with the Schedule attached to this contract in Exhibit B ("Design & Construction Support Schedule"). The City and Consultant commit to all due diligence to meet the schedule in Exhibit B. If delays beyond Consultant's reasonable control occur, the parties will negotiate in good faith to re-establish a new schedule to complete the necessary work as soon possible and practical.

B. Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on March 19, 2015, ("Commencement Date") and shall terminate on November 15, 2015 unless extended or terminated in writing as provided herein.

4. **Compensation.**

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed Fifty Thousand Five Hundred Seventy Five Dollars and No/Cents (\$50,575.00) without written authorization and will be based on billing rates and reimbursable expenses attached hereto as Exhibit C ("Schedule of Hourly Rates") and Exhibit D ("Budget Summary").

5. **Payment.**

A. Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within sixty (60) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for six (6) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination, Record-Keeping and Compliance with Laws**

A. During the performance of this Agreement, neither the Consultant nor any party subcontracting under the authority of this Agreement shall discriminate or tolerate harassment on the basis of race, color, sex, religion, national origin, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement. King County Code Chapters 12.16 and 12.17 are incorporated herein by reference, and to the extent applicable such requirements shall apply to this Agreement.

B. During the solicitation, award and term of this Agreement, the Consultant shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Consultant shall not discriminate against any person on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

C. The Consultant shall comply fully with all applicable federal, state and local laws, ordinances, Presidential Executive Orders and regulations that prohibit discrimination to the extent applicable. These laws include, but are not limited to, KCC Chapter 12.17; RCW Chapter 49.60; Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(a) *et seq.*, the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, and the Restoration Act of 1987. The Consultant shall further, comply fully with any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

D. King County encourages the Consultant to utilize small businesses, including Minority-owned and Women-owned Business Enterprises (“M/WBEs”) in County contracts. The County encourages the Consultant to use the following voluntary practices to promote open competitive opportunities for small businesses, including M/WBEs.

1. Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to provide project information and to inform small businesses and other firms of contracting and subcontracting opportunities.

2. Placing all qualified small businesses, attempting to do business in King County, including W/WBEs on solicitation lists, and providing written notice of subcontracting opportunities to these firms capable of performing the work, including, without limitation, all businesses on any list provided by the County, in sufficient time to allow such businesses to respond to the written solicitations.

3. Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses, including M/WBEs.

4. Establishing delivery schedules, where the requirements of this Agreement permit, that encourages participation by small businesses, including M/WBEs.

5. Providing small businesses, including M/WBEs that express interest with adequate and timely information about plans, specifications and requirements under this Agreement.

6. Using the services of available community organizations, contractor groups, local assistance offices, the County and other organizations that provide assistance in the recruitment and placement of small businesses, including M/WBEs.

7. The Washington State Office of Minority and Women’s Business Enterprises (OMWBE) can provide a list of certified M/WBEs. Contact OMWBE office at 360-866-208-1064 or on-line through the website at <http://www.omwbe.wa.gov/>.

E. The Consultant shall implement and carry out the obligations in its Affidavit and Certificate of Compliance regarding equal employment opportunity, and all other requirements as set forth in the Affidavit and Certificate of Compliance.

F. King County Code Chapter 12.18 is incorporated by reference as if fully set forth herein and, to the extent applicable, such requirements apply to this Agreement. In particular, these requirements specify that during the performance of this Agreement, neither the Consultant nor any party subcontracting under the authority of this Agreement shall engage in unfair employment practices. It is an unfair employment practice for any:

1. Employer or labor organization to discriminate against any person with respect to referral, hiring, tenure, promotion, terms, conditions, wages or other privileges of employment;

2. Employer or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, apprenticeship training program, or other occupational training program;

3. Employer, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to employment or membership, or to use any form of application therefore, which indicates any discrimination unless based upon a bona fide occupation qualification;

4. Employer to discriminate against any person with respect to any reference for employment or assignment to a particular job classification;

5. Employer or labor organization to retaliate against any person because that person has opposed any practice forbidden by KCC Chapter 12.18 or because that person has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of KCC Chapter 12.18;

6. Publisher, firm, corporation, organization or City printing, publishing or circulating any newspaper, magazine or other written publication to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of KCC 12.18.030(C), or to segregate and separately designate advertisements as applying only to men or women unless such discrimination is reasonably necessary to the normal operation of the particular business, enterprise or employment, unless based upon a bona fide occupational qualification;

7. Employer to prohibit any person from speaking in a language other than English in the workplace unless:

a. The employer can show that requiring that employees speak English at certain times is justified by business necessity; and

b. The employer informs employees of the requirement and the consequences of violating the rule.

c. If the Consultant engages in unfair employment practices as defined above, remedies as set forth in KCC Chapter 12.18 may be applied, in addition to those remedies specified in the Agreement or otherwise available at law or equity.

G. Nondiscrimination in subcontracting practices. Projects using federal funds shall comply with the following requirements:

1. Federal Requirements. In soliciting subcontractors to supply goods or services for the activities under this Agreement, the Consultant shall comply with 24 CFR § 85.36(e) as amended if the City is a municipal corporation or an City of the State of Washington, and 24 CFR § 84.44(b)(1)-(5) if the City is a nonprofit corporation. In accordance with these regulations, the Consultant shall take all necessary affirmative steps to assure M/WBEs and labor surplus area firms are used as subcontractors when possible. Affirmative steps shall include those actions specified above in this Section of the Contract.

2. Nondiscrimination in Federally Assisted Construction. The Consultant shall also require compliance with Presidential Executive Order 11246 as amended and 41 CFR Part 60 regarding nondiscrimination in bid conditions for construction projects over \$10,000.

H. Section 504 and Americans With Disabilities Act (ADA). The City has completed a 504/ADA Self-Evaluation Questionnaire for all programs and services offered by the City (including any services not subject to this Contract) and has evaluated its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, 29 USC 701 et seq.; and the ADA, 42 USC 12101 et seq. as amended. The City has completed a 504/ADA Assurance of Compliance. Such Assurance of Compliance is attached to this Contract and is incorporated herein by this reference.

I. Record-Keeping Requirements and Site Visits. The Consultant shall maintain, for at least six years after completion of all work under this Agreement, the following:

1. Records of employment, employment advertisements, application forms, and other pertinent data, records and information related to employment, applications for employment or the administration or delivery of services or any other benefits under this Contract; and

2. Records, including written quotes, bids, estimates or proposals submitted to the Consultant by all businesses seeking to participate on this Contract, and any other information necessary to document the actual use of and payments to subcontractors and suppliers in this Contract, including employment records.

3. The County may visit, at any time, the site of the work and the Consultant's office to review the foregoing records. The Consultant shall provide every assistance requested by the County during such visits. In all other respects, the Consultant shall make the foregoing records available to the County for inspection and copying upon request. If this Agreement involves federal funds, the Consultant shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the contract documents.

J. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right inspection to secure the satisfactory completion thereof.

K. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

L. Consultant shall obtain a City of Black Diamond business license prior to receipt of written Notice to Proceed.

M Sanctions for Violations. Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of contract for which the Contractor may be subject to damages, withholding payment and any other sanctions provided for by the Agreement and by applicable law.

7. **Relationship of Parties.** The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

#### 8. **Suspension and Termination of Agreement**

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. The Agreement may be terminated upon the default of the Consultant.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City, and Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. Consultant shall not be entitled to any reallocation of cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. **Standard of Care.** 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 provided by Consultant 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.

10. **Ownership of Work Product.**

A. All data materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of City, shall be forwarded to City at its request and may be used by City as it sees fit. Upon termination of this agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

C. **Proprietary Rights.** The Consultant agrees to and does hereby grant to the County, irrevocable, nonexclusive, and royalty-free license to use, according to law, any patentable or copyrightable material or article and use any method that may be developed as part of the work under this Agreement.

11. **Work Performed at the Consultant's Risk.** The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. **Indemnification.** The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

3/30/15 *CB*  
*The City of Black Diamond, its officers and employees, and*

The Consultant shall indemnify and hold harmless King County, its officers, and employees from any and all costs, damages, judgments and/or awards of damages to the extent caused by the negligent act or omissions of Consultant, its officers, employees and/or agents in connection with or in support of this Contract. Consultant expressly agrees and understands that King County is a third-party beneficiary to this Contract and shall have the right to bring an action against Consultant to enforce the provisions of this paragraph.

The Consultant further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception that occurs due to the negligence, wrongful act, and/or failure, for any reason, to comply with the terms of this Agreement by the Consultant, its officers, employees, agents, and/or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of this Agreement pursuant to Section 2 (relating to the schedule) or Section 8 (Termination) in this Agreement.

Should a court of competent jurisdiction determine that this Agreement is Subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

**13. Insurance.** The Consultant shall procure and maintain for the duration of the Agreement, 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 the Consultant, its agents, representatives, or employees.

**A. Minimum Scope of Insurance**

Consultant shall obtain insurance of the types described below:

1. 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. The City will be named by endorsement as additional insured under Consultant's commercial auto policy.
2. 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 and personal injury and advertising injury and contractual liability coverage. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability Insurance.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance \$1,000,000 combined single limit per accident for bodily injury and property damage.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage and \$2,000,000 in the aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. Stop Gap or Employer's Liability Coverage: \$1,000,000.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that it shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limits by claims paid, until after thirty (30) days prior written notice has been given to the County and City by certified mail, return receipt requested.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.
5. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not apply to the Consultant liability to the County and shall be the sole responsibility of the Consultant.

Revised 2/26/15

6. The insurance policies required in this Agreement are to contain, or be endorsed to contain, the following provision:

a. All liability policies except Professional and Workers Compensation.

(i) The County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Consultant in connection with this Agreement. Such coverage shall include Products-Completed Operations.

(ii) To the extent of the Consultant's negligence, the Consultant's insurance coverage shall be primary as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with the Consultant's insurance or benefit the Consultant in any way.

(iii) The Consultant's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

b. Property Coverage Policies.

(i) The County shall be added to all Property Coverage Policies as a loss payee as its interests may appear.

(ii) The County shall be added as a Named Insured as their interests may appear to all Builders Risk policies.

D. Acceptability of Insurers. Unless otherwise approved by the County, insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or if not rated with Bests, with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance may be placed with insurers with a Bests' rating of B+VII. Any exception must be approved by the County.

If, at any time, the foregoing policies shall fail to meet the above requirements, the Consultant shall, upon notice to that effect from the County, promptly obtain a new policy and shall submit the same to the County, with appropriate certificates and endorsements, for approval.

E. Verification of Coverage

Consultant shall furnish the City and County with certificates of insurance and endorsements required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by the person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County prior to the commencement of activities associated with the Agreement.

F. Subcontractors. The Consultant shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. If the Consultant is relying on the insurance coverages provided by subcontractors

as evidence of compliance with the insurance requirements of this Agreement, then such requirements and documentation shall be subject to all of the requirements stated herein.

**14. Assigning or Subcontracting.** 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 in the sole discretion of the City.

**15. Notice.** Any notices required to be given by the City to Consultant or by Consultant to the City shall be in writing and delivered to the parties at the following addresses:

CITY OF BLACK DIAMOND  
Attn: Carol Benson, Mayor  
PO Box 599  
24301 Roberts Drive  
Black Diamond, WA 98010

Phone: 360-886-5700  
Fax: 360-886-2592

NAME OF CONSULTANT  
Attn: Laurie Fulton  
STANTEC CONSULTING SERVICES INC.  
11130 NE 33<sup>rd</sup> Place, Suite 200  
Bellevue, WA 98004

Phone: 425-869-9448  
Fax: 425-869-1190

**16. Resolution of Disputes and Governing Law.**

A. If requested in writing by either the City or the Consultant, the City and the Consultant shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by first entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties.

B. If a dispute cannot be settled within a period of thirty (30) calendar days with the assistance of the mediator, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. 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's fees from the other party.

**17. General Provisions.**

A. **No Preferential Treatment.** The Consultant agrees that it will not attempt to secure preferential treatment in dealings with the County by offering any valuable consideration, thing of value, or gift, whether in the form of services, loan, thing, or promise, in any form, to any County official or employee. The Consultant acknowledges that if it is found to have violated the prohibition found in this paragraph its current contracts with the County shall be cancelled and it shall not be able to bid on any County contract for a period of two years.

B. Political Activity Prohibited.

1. No Partisan Activity: None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

2. Certification Regarding Lobbying: All Projects using federal funds shall also comply with the following subsection:

3. The Consultant certifies, to the best of its knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any City, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any City, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The Consultant shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.

d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

D. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

E. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or

unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

G. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF BLACK DIAMOND,  
WASHINGTON

CONSULTANT

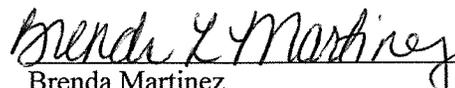
By:   
Carol Benson  
Mayor

By:   
Name: Gregory G. Hill PE  
Title: Principal

Date: 3/20/15

Date: 3/17/2015

Attest:

By:   
Brenda Martinez  
City Clerk

APPROVED AS TO FORM:

By:   
Carol A. Morris  
City Attorney

Handwritten text, possibly a signature or name, located in the upper left quadrant of the page.

**EXHIBIT "A"**  
**SCOPE OF WORK**

**City of Black Diamond**  
**Downtown AC Water Main Replacement & Looping Project**  
**Design Services**

**Stantec Consulting Services Inc.**

**PROJECT DESCRIPTION**

Stantec will provide professional design engineering services for installation of approximately 950 feet of 8-inch ductile iron (DI) pipe and 550 feet of 2-inch ploy pipe, to replace 750 feet of existing small diameter asbestos cement (AC) water main and to replace 350 feet of 1¼ inch corroded iron pipe; in order to replace aging infrastructure in public rights-of-way within the downtown area of the City of Black Diamond. Design includes fire hydrants, valves, meters, other appurtenances and pavement overlay and surface restoration. Stantec will provide field survey, topographic basemaps, drawings, specifications, construction cost estimates, bid support, construction support, if needed, and drafting for construction record drawings.

**SCHEDULE**

The City requests that the design documents be completed and ready for bid advertisement by June 3, 2015.

**SCOPE OF WORK**

This Scope of Work consists of 1) Project Management, 2) Design Services and 3) Construction Phase Services, and 4) Supplemental Services.

**PROJECT MANAGEMENT**

- A. Manage all tasks, staff for design and construction phase services.
- B. Develop project schedule.
- C. Communicate on a regular basis with City regarding design progress, issues, costs, and schedule.
- D. Administer monthly Consultant invoicing to City for services provided.

**Deliverables:**

- Project schedule.
- Monthly invoice.

**DESIGN SERVICES**

- A. Research and Scoping
  - Attend one meeting (1 Stantec attendee), which includes site visit, with City personnel to review City standards, specific project work elements, priorities and schedule.

3/5/2015

- Identify necessary work products to support development of plans and specifications
- Research, collect and assemble available existing data documents for City and private utility contract record drawings (as-builts).

#### B. Topographic Survey and Preparation of Base Drawings

- Perform field topographic survey to identify existing surface conditions within project limits using electronic surveying equipment and one or two-person crew.
  - Survey limits to include location of existing water meters, edge of pavement on each side of the street, plus hydrants, pavement patches and other water appurtenances located within public right-of-way or easement.
  - Field survey to include available underground-utility paint-mark locates and surface indications of underground features prior to topographic survey. Field survey does not include potholing underground utilities.
- Request and obtain available franchise utility companies' construction record drawing information including underground power, gas, telephone, fiber optic, and other known utilities and incorporate into the base drawings.
- Coordinate underground utility locates (through services of a utility locates service hired by the City) for City and franchise utilities to confirm horizontal locations of existing utilities. Services will include the following:
  - Preliminary research and review of available City and utility companies' record drawings to confirm approximate locations.
  - Provide maps, as required, showing limits for utility locates.
  - Respond to questions from utility locates company.
- Coordinate exploratory potholing of buried utilities (through services of a vactor service company hired by the City) for City and franchise utilities to confirm horizontal locations and depths of existing utilities. Services will include the following:
  - Preliminary research and review of available City and utility companies' record drawings to confirm approximate locations.
  - Provide instructions and maps showing pothole locations.
  - Respond to questions from vactor service company.
- Reduce field data and prepare base drawings for design. Base drawings will be established using 1 inch = 20 feet drawing scale and will include one-foot contour intervals.
- Horizontal and vertical control will be NAD 83 (NSRS 2007) Horizontal datum and NAVD 88 Vertical Datum. GPS surveying methodology will be employed where practical and feasible.

#### C. Schematic Design (30%) Documents

- Perform field reconnaissance for approximately 1,500 linear feet of main replacement. Take and catalog digital photos to document significant existing features and conditions.
- Review the City's available Water, Sewer and Storm Utility construction record drawings and GIS base maps, incorporate pertinent utility, parcel, right-of-way line and address information into the base drawings. City to

provide both hard copy and electronic files of the Water, Sewer and Storm Utility maps where available.

- Meet with City staff on site to review design requirements and to verify locations of existing features and conditions as they relate to the design.
- Prepare plan and profile design drawings showing base drawing information (existing topographic survey, utility, and parcel/right-of-way line information), proposed alignment of water mains, proposed locations of gate valves, hydrants and services, existing water mains to be abandoned or removed,
- Prepare preliminary Opinion of Probable Construction Cost (OPCC) showing bid items, quantities, unit costs, and total probable costs for construction of proposed improvements totaled by all locations into one spreadsheet.
- Conduct in-house quality assurance (QA) review.
- Communicate with City staff to discuss City's Draft Design review comments.

#### D. 90% Design Documents

- Incorporate City's schematic design review comments and CDBG documents into drawings, Contract Documents and OPCC.
- Provide final detail on drawings; such as, call-outs for connections to existing system, fittings, valves, hydrants, services, and water meters; complete project-specific details and notes including ones pertaining to pavement restoration; and standard construction and TESC notes.
- Obtain and incorporate the relevant City's Standard Details into drawing set.
- Obtain and incorporate the City's Standard Details and Specifications into the design drawings and contract documents. The City's Standard Specifications will be used, with supplemental specifications provided by Consultant and modified, as necessary, for this project.
- Prepare draft Contract Documents including City's boilerplate advertisement for bid, bid proposal, contract and Special Provisions sections.
- Obtain and incorporate CDBG documents.
- Conduct in-house quality assurance (QA) review.
- Prepare OPCC based on 90% design.
- Submit three sets of Final Contract Documents and OPCC to City for review by City and CDBG.
- Communicate with City staff to discuss City's review comments.

#### E. Final Design Documents

- Incorporate City's 90% design review comments, and CDBG review comments, into drawings, Contract Documents and OPCC.
- Provide final detail on drawings; such as, call-outs for connections to existing system, fittings, valves, hydrants, services, and water meters; complete project-specific details and notes including ones pertaining to pavement restoration; and standard construction and TESC notes.
- Conduct in-house quality assurance (QA) review.
- Submit three sets of Final Contract Documents and OPCC to City for review by City and CDBG.
- Communicate with City staff to discuss City's review comments.

F. Bid Documents

- Finalize drawings and Contract Documents for bidding by incorporating City's Final Design review comments.
- Conduct in-house quality assurance (QA) review.
- Scan and upload bid documents electronically to Builder's Exchange.

G. Bidding Services

- Answer bidder technical questions during bid period, if necessary.
- Assist City in preparing addenda, if necessary.

H. Coordination with King County/CDBG

- Phone coordination with CDBG regarding specific items as needed (allowance 4 hours)

**Assumptions:**

- Wetland and stream buffer delineation, studies, and reports are not required.
- No City-issued permits will be required.
- SEPA will not be required.
- No easement will be required.
- Specification technical sections will be based on City of Bellevue Utilities specification format, including sections or portions of sections as applicable to this project.

**City Responsibilities:**

- Provide available water, sewer, and storm utility maps.
- City arrange for, and contract with, utility service locates company to provide locates for all buried utilities.
- City contract with vactor company to pothole proposed AC water main crossings.
- Assist utility locates service, as required, by field marking locations of water and sewer.
- Field mark extents of existing asphalt pavement areas to be replaced by contractor before design survey.
- City will provide electronic standard boilerplate Contract Documents, General Information and Special Provisions to the Standard Specifications.
- City and CDBG turnaround time for review comments shall be two weeks for Draft submittal, three weeks for Final submittal.
- City to administer distribution of bid/contract document sets to prospective bidders, distribute addenda as necessary, receive bids, prepare bid tabulation, review apparent low bidder references, and prepare recommendation for contract award.
- City to provide bid abstract to appropriate newspapers and pay for publication.
- Review and approve construction record drawings.
- It is assumed no easements or right of entry permits will be required.

- Procure title reports.
- Additions to the scope of work will be performed as SUPPLEMENTAL SERVICES.

**Deliverables –Schematic Design Drawings:**

- Submit two sets of full-size (22"x34") and one set of half-size (11"x17") drawings and preliminary OPCC to City for review.

**Deliverables –90% Design Documents:**

- Submit two sets of Contract Documents (hard copy), two sets of full-size (22"x34") and one set of half-size (11"x17") drawings and draft OPCC to City for review.
- Submit one set of Contract Documents (hard copy) and one set of half-size (11"x17") drawings and draft OPCC to CDBG for review.

**Deliverables – Final Design Documents:**

- Submit two sets of Contract Documents (hard copy), two sets of full-size (22"x34") and one set of half-size (11"x17") drawings and final OPCC to City for review.
- Submit one set of Contract Documents (hard copy) and one set of half-size (11"x17") drawings and draft OPCC to CDBG for review.

**Deliverables – Bid Set:**

- Submit one unbound master set of bid/contract documents with half size (11"x17") drawings.
- Submit 4 sets of comb bound Bid/Contract Documents with half size (11"x17") drawings and final OPCC to City for review.
- Submit one full size (22"x34") sets of plan drawings.
- Submit electronic copy of final Plan Drawings, Contract Documents and OPCC.
  - Plan drawings will be developed in AutoCAD Civil 3-D at Stantec's office and submitted to City as 2014, or earlier version if requested. A .pdf of all of the drawing sheets will also be submitted.
  - Contract Documents will be in PDF format.
- OPCC will be in Microsoft Excel format.

## **CONSTRUCTION PHASE SERVICES**

### **I. Design and Engineering Support During Construction:**

The Consultant will provide design support as requested by the City to provide guidance on potential construction conflicts, specific questions, etc. The budget for this task is based on a typical level of design support for a few issues that may occur during construction. If major differing site conditions or complex issues are identified, additional fees may be required.

### **J. Construction Record Drawings:**

The Consultant will use the Contractor's and/or City's marked up field drawings, and GPS data if provided, to prepare ACAD-format construction record drawings using the original design ACAD files as the base drawings. This service will be accomplished by the Consultant's ACAD drafter/designers located at the Consultant's office. Construction record drawings will reflect the completed permanent water improvements. Right-of-way lines, property boundaries, etc. will be retained from the design drawings.

#### **City Responsibilities and Assumptions:**

- Provide Construction Inspection
- Monitor Contractor's construction as-built field records (redlines) to ensure correct and current throughout construction.
- Review and approve construction record drawings.

## **SUPPLEMENTAL SERVICES**

### **K. Provide additional services as may be required to complete the project that are requested and authorized by the City.**

- Stantec will submit a budget estimate for Supplemental Services if requested by the City.
- Stantec will not commence work on any supplemental services work until Stantec receives written authorization from the City to proceed with any Supplemental Services.

## **SERVICES NOT INCLUDED**

The following services are not a part of this Agreement. If the City chooses to add one or more of the following services to this Scope of Work, then this Agreement shall be modified in terms of an addition to the total compensation to be paid to the Consultant and an appropriate extension of time (as necessary) to the Consultant's schedule.

1. All Permit related services.
2. Coordination with City of Black Diamond's Fire Marshall regarding review and approval of proposed improvements.
3. Hydraulic network analysis of existing and/or proposed water system to verify proposed pipe sizes.
4. Underground utility potholing and any associated field surveying to confirm horizontal and vertical locations of existing water mains and other existing utilities

at various locations.

5. Attendance at bid opening, preparing bid tabulation, review apparent low bidder references, and prepare recommendation for contract award.
6. Easements and related services.
7. Geotechnical exploration/report.
8. Stream buffer delineation and environmental studies and reports.
9. Coordination with property owners.
10. Purchase of title reports.
11. Construction inspection and construction administration

**END OF EXHIBIT "A"**



**EXHIBIT "B"**  
**DESIGN & CONSTRUCTION SUPPORT SCHEDULE**

**City of Black Diamond**  
**Downtown AC Water Main Replacement & Looping Project**

<u>Activity</u>	<u>Cumulative Time</u>	<u>Target Dates</u>
Design contract executed		March 19, 2015
Utility Locates & Potholing Completed*	0 day (reference date)	March 23, 2015
Schematic Design complete	+21 days	April 13, 2015
City review (3 days) complete	+24 days	April 16, 2015
90% Design complete	+42 days	May 4, 2015
City/CDBG review (14 days) complete	+56 days	May 18, 2015
Bid document finalized	+63 days	May 25, 2015
City/CDBG final review (3 days) complete	+66 days	May 28, 2015
Bid advertisement	+72 days	June 3, 2015
Bid opening	+86 days	June 17, 2015
Construction start	+126 days	July 28, 2015
Construction completion	+199 days	October 8, 2015
Construction record drawings complete	TBD	

\*Schedule days are calendar days starting at completion of utility locates and potholing. City will procure utility locating services separately and utility locating will be complete by March 23<sup>rd</sup>.

\*City will provide a minimum of 7 days advanced notice to Stantec of estimated completion date of utility locates, so that Stantec can schedule survey crew.



**EXHIBIT C  
SCHEDULE OF HOURLY RATES**

Stantec Consulting Services Inc. fee schedule by staff and reimbursable  
expense classification as of January 1, 2015. Rates are subject to  
modification.

**Staff Time**

<u>Classification</u>	<u>Hourly Billing Rate Range</u>	
EIT / Sr. Designer	\$91.00	- \$108.00
Civil Specialist	\$103.00	- \$184.00
Engineer	\$107.00	- \$187.00
Project Manager	\$180.00	- \$230.00
Planner	\$120.00	- \$141.00
Geotechnical Engineer	\$150.00	- \$231.00
CAD (includes mapping and GIS)	\$91.00	- \$121.00
Engineering Geologist	\$146.00	- \$171.00
Construction Representative	\$104.00	- \$122.00
Surveyor	\$99.00	- \$117.00
Project Surveyor (PLS)	\$140.00	- \$164.00
Administrative	\$31.00	- \$104.00
Administrative Lead	\$95.00	- \$141.00
Director / Principal / Sr. Engineering Consultant	\$203.00	- \$295.00

**Reimbursable Expenses**

Travel

Vehicle Mileage	IRS Standard Rate: (Currently \$0.575)
Airfare	Actual cost without markup
Miscellaneous Travel - Parking, Tolls, Taxi Fares, etc.	Actual cost without markup

Project Specific Supplies & Outside Reproduction

Actual cost without markup

Prints

Black & White Prints (up to 11x17)	\$1.25	per sheet
Color Prints (up to 11x17)	\$1.50	per sheet
Large Format Prints	\$7.50	per sheet
CD Production	\$2.00	per cd

Computer Station

\$10.00 per hour

Map/Drawing Scanning

\$5.00 per sheet

Field Equipment

Survey - Digital Level	\$5.00	per hour
Total Station	\$10.00	per hour
Robotic Total Station	\$15.00	per hour
GPS/RTK	\$20.00	per hour

**No charges are billed for the following items:**

1. Long distance phone calls
2. Fax services
3. Postage



**EXHIBIT "D"**  
**BUDGET SUMMARY**

**City of Black Diamond**  
**Downtown AC Water Main Replacement & Looping Project**  
**Design & Construction Support Services**

Stantec Consulting Services Inc.

**SUMMARY OF HOURS AND FEE**

<b>Task</b>	<b>Labor Hours</b>	<b>Labor Cost</b>	<b>Reimbursable Cost *</b>	<b>Total Cost</b>
<b>Project Management</b>	28	\$ 4,131	\$ 50	\$ 4,181
<b>Design Services</b>				
Onsite Design Survey/Base Mapping	48	\$ 5,402	\$ 360	\$ 5,762
Schematic Design (30%) Drawings, and OPCC and QA	73	\$ 9,149	\$ 220	\$ 9,369
90% Design Drawings, Specs, OPCC and QA	112	\$ 15,093	\$ 390	\$ 15,483
Final Design Drawings, Specs, OPCC and QA	56	\$ 7,459	\$ 170	\$ 7,629
Bid Documents	28	\$ 3,613	\$ 150	\$ 3,763
Bidding Services	7	\$ 950	\$ 10	\$ 960
<b>Subtotal Design Services</b>	<b>323</b>	<b>\$ 41,666</b>	<b>\$ 1,300</b>	<b>\$ 42,966</b>
<b>Construction Phase Services</b>				
Design and Engineering Support During Construction (as required)	8	\$ 1,113	\$ 10	\$ 1,123
Construction Record Drawings	17	\$ 2,135	\$ 170	\$ 2,305
<b>Subtotal Construction Phase Services</b>	<b>25</b>	<b>\$ 3,248</b>	<b>\$ 180</b>	<b>\$ 3,428</b>
<b>Total Not to Exceed</b>	<b>375</b>	<b>\$ 49,045.00</b>	<b>\$ 1,530.00</b>	<b>\$ 50,575.00</b>

\* includes mileage, equipment, supplies, computer usage, etc

