



**CITY OF BLACK DIAMOND**  
**July 9, 2012 Special Meeting Agenda**  
25510 Lawson St., Black Diamond, Washington

**7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL**

**PUBLIC COMMENTS:** Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending this evening.

**PUBLIC HEARINGS:**

**APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:**

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- |  |                |
|--|----------------|
| 1.) AB12-050 – Resolution Authorizing Aquatic Weeds Vegetation Plan with King County   | Mr. Nix        |
| 2.) AB12-051 – Resolution Authorizing Professional Services Agreement with Subterra, Inc.  | Mr. Pilcher    |
| 3.) AB12-052 – Resolution Authorizing Professional Services Agreement with Parametrix,<br>for Surveying Services                 | Mr. Pilcher    |
| 4.) AB12-053 - Resolution Approving Special Event Permit for XTERRA  | Mr. Pilcher    |
| 5.) AB12-054 – Resolution Accepting CDBG Funds for Watermain Replacement   | Mr. Williamson |
| 6.) AB12-055 – Resolution Authorizing Professional Services Agreement with Parametrix for<br>Rock Creek Bridge Engineering Study | Mr. Williamson |

**DEPARTMENT REPORTS:**

**MAYOR'S REPORT:**

**COUNCIL REPORTS:**

**ATTORNEY REPORT:**

**PUBLIC COMMENTS:**

**CONSENT AGENDA:**

- 7.) **Claim Checks** – July 9, 2012 Check No. 38434 through No. 38484 (void check 38448) in the amount of \$75,091.47
- 8.) **Minutes** – Council Workstudy Notes of June 13, 2012, Council Workstudy Notes of June 14, 2012, Council Workstudy Notes of June 19, 2012, Council Workstudy Notes of June 21, 2012, Council Meeting of June 21, 2012, Special Meeting of June 28, 2012

**EXECUTIVE SESSION:**

**ADJOURNMENT:**

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT: Resolution No. 12-818, allowing the Mayor to enter into a Technical Services Agreement with the King County Water and Land Resources Division (WLRD) in the development and eventual submittal of an Integrated Aquatic Vegetation Management Plan, with the option to add additional services needed for continued water quality sampling on Lake Sawyer, if requested and authorized by the City Council through 2016.</b> Cost Impact: \$31,516.27 Fund Source: Washington State Department of Ecology Grant Agreement # G1200433 and City Grant Matching funds. Timeline: December of 2014, IAVMP	<b>Agenda Date: July 9, 2012</b>	
	Department/Committee/Individual	AB12-050
	Mayor Rebecca Olness	
	City Administrator – Pete Butkus	
	City Attorney – Chris Bacha	X
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
	Police – Jamey Kiblinger	
<b>Attachments: Resolution 12-818; Technical Services Agreement with King County (WLRD); Resolution No. 12-796</b>		
<p>At it's May 3, 2012 meeting, the Black Diamond City Council gave approval for the Mayor to enter into an agreement (Attached) with the Washington State Department of Ecology, accepting grant funds in the amount of \$25,000 for the development and eventual approval by Ecology of an Integrated Aquatic Vegetation Management Plan. The attached Technical Services Agreement will aide staff in the development of this plan with assistance from staff from the King County Water and Land Resources Division. In addition, the Technical Services Agreement will allow staff the opportunity to continue with water quality sampling services provided by King County on Lake Sawyer into 2016, contingent on request and authorization of these additional services by the Black Diamond City Council.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION: The Parks and Cemetery Committee gave their recommendation to move forward with the Technical Services Agreement with King County (WLRD) at their June 21, 2012 Committee Meeting.</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-818, authorizing the Mayor to enter into a Technical Services Agreement with the King County Water and Land Resources Division in the development of an Integrated Aquatic Vegetation Management Plan and the potential for additional water quality sampling services on Lake Sawyer, contingent on request and authorization by the City of Black Diamond City Council through 2016.</b>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
July 9, 2012		

## **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:

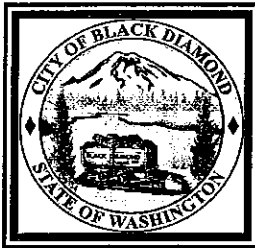
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Rebecca Olness, Mayor

Attest:

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Brenda L. Martinez, City Clerk



## CITY OF BLACK DIAMOND

### City Council Memorandum

TO: CITY OF BLACK DIAMOND CITY COUNCIL  
FROM: AARON NIX, PARKS/NATURAL RESOURCES  
SUBJECT: AGREEMENT WITH KING COUNTY ON THE  
DEVELOPMENT OF AN INTEGRATED AQUATIC WEED  
VEGETATION MANAGEMENT PLAN (IAVMP) AND  
POTENTIAL ADDITIONAL WATER QUALITY SAMPLING  
SERVICES THROUGH 2016  
DATE: JULY 9, 2012

HONORABLE COUNCIL MEMBERS,

The Parks and Cemetery Committee met on June 21, 2012 to review the attached, Draft agreement with the King County, Water and Land Resources Division. At that time, the Committee agreed that the agreement should be moved onto the full Council for your review and potential approval.

The agreement covers **two** areas, the development of an Integrated Aquatic Weed Management Plan (IAVMP) as outlined in Exhibit One and the potential for additional water quality services, if requested and approved by the City and County. This contract would run through December 31, 2016.

As I believe you all are aware of, the County currently provides lake sampling materials, testing, reporting functions and training to volunteers as part of a two year existing contract (2011-12) that was approved by Resolution #11-746 by the previous Council. It's a good program that gets the community involved and saves us money as much of the water quality sampling is done by volunteers on Lake Sawyer and me. The County lab does the lab certified testing and Sally Abella and her staff put the report together, offer technical assistance when needed and leads the Weed Watcher's Program in the spring/summer of each year. As these services are slated to end in December of 2012, under Resolution #11-746, we added the additional services component (page 2, section III(B)) to the agreement, so a simple scope approval by both the City and the County would suffice in continuing the water quality testing, with no delays up to the end of 2016.

Since the meeting with the Parks/Cemetery Committee, staff and the County have revisited the contract and felt that the annual cap of \$20,000 per year for services should be adjusted up to \$30,000 as we could exceed the \$20,000 threshold in 2013 as the IAVMP development will be in full swing and water quality testing would be occurring, potentially putting us over the \$20,000 limit imposed by the previous draft of the agreement. This change in the total dollar amount per year is on page 2, section IV (D).

Based on the Draft agreement, the IAVMP development would terminate at the end of December 2014 (Page 2, section III (A)) so that we can meet our submittal requirements placed on us by the Department of Ecology when this council approved the award of the grant money via Resolution #12-797.

I hope that this is not too confusing. Please, if you have any doubts or questions, please call me and we can discuss as well as bring up any issues during the Council meeting on the 9<sup>th</sup> of July.

I truly appreciate all your efforts and look forward to hearing from you in the near future or at the meeting.

Regards,

Aaron Nix  
City of Black Diamond  
Parks/Natural Resources  
360.886.5700

ACN

**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 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 \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Approved as to Form

**King County:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Deputy Prosecuting Attorney

Title: King County Executive

Approved as to Form

**City of Black Diamond:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: City Attorney

Title: \_\_\_\_\_

**Scope of Work 2012-2014  
City of Black Diamond Support Services  
Lake Sawyer Integrated Aquatic Vegetation Management Plan**

King County Water and Land Resources will provide services through the King County Lake Stewardship Program (KC – LSP) to the City of Black Diamond to support the City in researching, writing, and conducting public outreach for an Integrated Aquatic Vegetation Management Plan (IAVMP) for Lake Sawyer.

Lake Sawyer has infestations of a number of invasive aquatic weeds, including Eurasian watermilfoil, yellow flag iris, fragrant water lilies, and possibly others. The watermilfoil is becoming particularly problematic, and it can be spread to other nearby lakes as Lake Sawyer is easily accessed by a public boat launch and is a popular recreational lake for the region. Invasive weeds degrade the aesthetic, recreational, and habitat values of lakes, and both the City and the State of Washington have strong incentives to control them. Black Diamond has received a grant from the Washington Department of Ecology (DOE) to produce the IAVMP, which will ultimately lead to a strategic plan for managing aquatic weeds in the lake. King County will act as its qualified aquatic plant management consultant.

Between summer 2012 and winter 2014, KC-LSP will assist Black Diamond by researching the history of noxious invasive weed problems at Lake Sawyer, inventorying the current extent of the problem through snorkel and boat surveys, writing the technical portions of the text, and working with the City and public to decide on a preferred option for controlling the Eurasian watermilfoil and other invasive weeds in and around the lake.

**IAVMP Research and Writing:**

KC-LSP will work with the City staff on gathering information and writing about Lake Sawyer including, but not limited to: community characteristics and history; watershed and lake characteristics; fish and wildlife communities; beneficial and recreational uses of the lake and surrounding areas; and characterization of the aquatic plant community present in the lake.

KC-LSP will coordinate with City staff on surveys of Lake Sawyer for invasive noxious weeds. A two-day survey will be conducted during the late summer of 2012 for Eurasian watermilfoil. During this survey, mapping and identifying other invasive weeds along the lake shoreline will also be performed. Maps reflecting the locations and, when possible, the extent of the invasive weed infestations will be shared with the City staff and possibly be incorporated into the IAVMP. KC-LSP will provide technical expertise and equipment for weed surveys, including but not limited to: a boat and safety equipment, a precision GPS for mapping locations, weed rakes for collecting samples, and a digital camera.

King County will also work with the City to create the draft IAVMP. This will include specific information about the lake and the watershed, as well as the background and current condition of the invasive aquatic plant problem. In addition, the plan will review the methods available to control (or possibly eradicate) the targeted invasive noxious

weeds. From these options a preferred control method will be chosen via feedback from the City and the citizens interested in the work on Lake Sawyer.

A draft copy of the IAVMP in an electronic format will be given to Black Diamond for edits and comments. KC-LSP will incorporate comments and edits as they arise and finalize the IAVMP for the City to submit to DOE by December 31<sup>st</sup>, 2014.

### **Public Outreach**

KC – LSP will help facilitate the public meetings associated with developing the IAVMP. Meetings will be held in collaboration with the City and Citizens' Advisory Committee once it is established.

A minimum of one meeting will be held prior to the production of the draft IAVMP in the summer or fall of 2012 to inform interested citizens about the noxious weeds in and around Lake Sawyer and to explain the IAVMP process. After this meeting, the KC-LSP will assist the City in establishing a Citizens' Advisory Committee to participate in the IAVMP development.

A second meeting will be held in summer/fall of 2013 with the Citizens' Advisory Committee to discuss the different control methods available for noxious weed treatment, with the intent of choosing a preferred option.

At least one additional meeting will be held after the draft plan is completed. The Lake Sawyer community and the general public will have the opportunity to respond with comments and suggestions, which will then be reviewed by the City and KC-LSP.

KC-LSP will produce public announcements and informational pieces regarding the invasive aquatic weed problem at Lake Sawyer, provide power point presentations that will help educate the citizens about each step of the IAVMP process, and provide technical expertise when needed.

When public comments are filed for the draft plan, they will be compiled and discussed between KC-LSP and City Staff. Where appropriate, KC-LSP will incorporate comments into the IAVMP. KC-LSP will submit the completed draft to the City, which will then submit it to DOE.

### **Estimated Costs**

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

Project Tasks	Cost
Task 1- Problem Assessment and Preferred Option	\$ 13,414.31
Task 2 - Survey and Mapping	\$ 8,549.72
Task 3 - Public Outreach	\$ 9,552.24
<b>Project Total</b>	<b>\$ 31,516.27</b>

# SIGNATURE AUTHORIZATION FORM FOR GRANT/LOAN RECIPIENTS

MAY 14 2012

## WATER QUALITY PROGRAM



Department of Ecology  
Water Quality Program  
PO Box 47600  
Olympia, WA 98504-7600  
Phone: (360) 407-6600  
FAX: (360) 407-7151

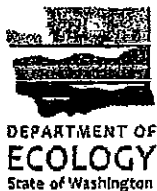
Name of Organization	Date Submitted
City of Black Diamond	May 4, 2012

Project Title	Agreement Number
2013 Lake Sawyer IAVMP	G1200433

AUTHORIZING SIGNATORY		
Signature	Print or Type	Title/Term of Office
	Rebecca Olness	Mayor/2010-2013

AUTHORIZED TO SIGN AGREEMENT AMENDMENTS		
Signature	Print or Type	Title
	Rebecca Olness	Mayor

AUTHORIZED TO SIGN REQUEST FOR REIMBURSEMENT		
Signature	Print or Type	Title
	Aaron Nix	Natural Resources/Parks Director



# Aquatic Weeds Management Fund Grant Application

FOR ECOLOGY USE  
Application Number

## - PART1 - General Information

### 1. PROJECT TITLE (five words or less):

Lake Sawyer IAVMP

### 2. APPLICANT NAME

Name: City of Black Diamond

Address (If different from Signatory): PO Box 599, Black Diamond, WA 98010

Federal Identification Number: 91-6026204

### 3. AUTHORIZED SIGNATORY (The person whose name is listed here must sign Box 9 of this application)

Name: Rebecca Olness

Title: Mayor

Address: PO Box 599, Black Diamond, WA 98010

### 4. APPLICANT STAFF CONTACT

Name: Aaron Nix

Title: Parks/Natural Resources Director

Address: PO Box 599, Black Diamond, WA 98010

Telephone number: 360.886.2560 x220 Fax number: 360.886.2592 E-mail address: anix@ci.blackdiamond.wa.us

### 5. PROJECT DATA (Actual PROJECT data, not data of applicant)

If the project is not a statewide project, please indicate the county(s), the water resource inventory area(s), legislative districts, and congressional districts where at least five percent of the PROJECT will be accomplished. The total of each separate designation must equal 100 percent.

Counties		Water Resource Areas		Legislative Districts		Congressional Districts	
Name	Percent	Number	Percent	Number	Percent	Number	Percent
King County	100	9	100	5	100	8	100

## 6. PROJECT DURATION

**Project Length (months or years):** 30 months

**Anticipated Start Date:** July 2012

**Anticipated Project Completion Date:** December 2014

## 7. PROJECT TYPE

Has an Integrated aquatic vegetation management plan been developed for this project? Yes ☐ No ☒

If yes, please provide the plan title and date that it was submitted to Ecology

## 8. COST BREAKDOWN

**Total Project Cost**

This amount is the total cost of the project and includes state and local costs **\$ 39,934**

**\$ 39,934**

### Ecology Grant Amount

This amount represents the Ecology grant request, at 75 percent of the total project cost for an implementation or planning project or 87.5 percent of the maximum eligible project cost for a pilot project. Planning grants are capped at \$30,000 state share; Implementation grants are capped at \$75,000 state share.

**\$ 29,951**

**\$ 29,951**

### Applicant Share

This amount is 25 percent of the total project cost for planning or implementation projects and 12.5 percent of the total project cost for pilot projects.

**\$ 9,984**

**\$ 9,984**

## 9. SIGNATURE BOX

I CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT AND THAT I AM LEGALLY AUTHORIZED TO SUBMIT THIS INFORMATION ON BEHALF OF THE APPLICANT.

Printed Name

Rebecca Olness

**Signature**

Robert Oliver

**Title**

Major

Date \_\_\_\_\_

11/28/2011

#### 10. APPLICATION SUBMITTAL

Send seven copies, one of which contains an original signature, to:

U.S. Postal Mailing Address:

Department of Ecology  
Water Quality Program  
P.O. Box 47600  
Olympia, WA 98504-7600

Overnight Mail or Hand Delivery Address:

Department of Ecology  
Water Quality Program  
300 Desmond Drive  
Lacey, WA 98503

NOTE: APPLICATIONS MUST BE RECEIVED AT THE DEPARTMENT OF ECOLOGY BY 5:00 P.M. ON THE CLOSING DATE. NO FACSIMILE OR ELECTRONIC APPLICATIONS WILL BE ACCEPTED. TO ENSURE DELIVERY OF APPLICATION BY THE DEADLINE, YOU MAY WISH TO CONSIDER USING RETURN RECEIPT MAIL.

*To ask about the availability of this document in a version for the visually impaired call the Water Quality Program at 360-407-6502. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.*

# Aquatic Weeds Management Fund Grant Application

## -Part 2- Project Proposal

This is the section of your application in which you describe your project. The information that you provide here will be used to evaluate the merit of your project and will provide the basis for our evaluation. Before describing your project, please carefully review the information in Chapter IV of the Aquatic Weeds Management Fund Program Guidelines.

Contact Melanie Tyler of the Department of Ecology if you have specific questions: by e-mail at [mety461@ecy.wa.gov](mailto:mety461@ecy.wa.gov) or by telephone at 360-407-7489. ONLY INFORMATION SUBMITTED BEFORE THE APPLICATION DEADLINE WILL BE USED IN THE EVALUATION PROCESS.

### Project Proposal

If your project implements an Integrated Aquatic Plant Management Plan, please enclose a copy of the plan or a plan approval letter from Ecology.

#### 1. EXECUTIVE SUMMARY

Please provide an overview of the proposed project. Limit your answer to 250 words.

- State the aquatic plants species targeted for action. *Invasive, non-native freshwater aquatic plants are given priority for grant funding.*
- Identify the water body or water bodies that will be involved and its relation to other infestations of the target plant species.
- Please include a map of the targeted water body or water bodies with the application.

Lake Sawyer is a 279 acre lake located in Water Resource Inventory Area (WRIA) 9 in the City of Black Diamond. It is in the northern section of the city, just west of Highway 169 and north of the Green River. The lake is surrounded by single-family homes but also has a city owned boat launch and a large, undeveloped city park that is located on the south end of the lake. Lake Sawyer is heavily used for fishing, boating, swimming and other recreational activities. It provides habitat for fish and wildlife in the area, including salmonids such as Coho, and ESA-listed steelhead.

Eurasian watermilfoil (*Myriophyllum spicatum*), yellow flag iris (*Iris pseudacorus*) and fragrant water lilies (*Nymphaea odorata*) are documented as being present at the lake; Eurasian watermilfoil is becoming particularly problematic. The lake is easily accessed by the public at the boat launch making milfoil easy to spread to nearby lakes such as Lake Wilderness, Pipe-Lucerne Lakes, Lake Desire and Spring Lake. *M. spicatum* has been eradicated from Pipe and Lucerne Lakes and is currently managed in Lake Wilderness and Spring Lake; reinfestation could negatively impact the management work done on these lakes. Milfoil will interfere with the recreational activities and decrease the habitat quality Lake Sawyer provides.

An Integrated Aquatic Vegetation Management Plan (IAVMP) is necessary in order to have a strategic plan for dealing with the several noxious weeds in and around the lake. It is important to survey the lake for

current distribution of invasive weeds while writing the IAVMP. In addition to Eurasian milfoil, other invasive weeds such as Brazilian elodea, purple loosestrife and narrow leaf cattail will be mapped if found. These surveys will provide a current, complete list and map of problematic weeds, ensuring a comprehensive and effective management plan.

## **2. SCOPE OF WORK**

Provide a scope of work for your project. List the tasks that you will undertake to complete the project, including details. For example, if education is a component of the project, when describing that task, say "we will produce and distribute two educational newsletters to the Lake X residents. In addition, we will hold at least one public meeting to talk about the project, etc." Describe how the project goals will be achieved. Discuss specific methods to be used or describe how the project will be accomplished.

*Task 1 is standard for all grant projects. Follow the format provided below for the additional tasks in your scope of work :*

### **Task 1- Project Administration/Management:**

- A. The RECIPIENT will administer and manage the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement and technical service agreement requirements; attainment of all required permits, licenses, easements, or property rights necessary for the project; conducting, coordinating, and scheduling of all project activities; quality control; and submittal of required performance items.
- B. The RECIPIENT will ensure that every effort is made to maintain effective communication with the RECIPIENT's designees, the DEPARTMENT, all affected local, state, or federal jurisdictions, and any interested individuals or groups. The RECIPIENT will carry out this project in accordance with completion dates outlined in this Agreement.
- C. The RECIPIENT shall submit all invoice requests and supportive documentation to the Financial Manager of the DEPARTMENT.

#### Required Performance:

- 1. Effective administration and management of this grant project.
- 2. Maintenance of all project records.
- 3. Submittal of all required performance items, including the Post Project Assessment Plan, progress reports, financial vouchers, and maintenance of all project records.

Total Task Cost \$ 2,808.00

### **Task 2: Problem Assessment and Preferred Option**

- A. The RECIPIENT will research and report on information regarding Lake Sawyer including but not limited to: community make-up and history, watershed and waterbody characteristics; fish and wildlife communities; beneficial and recreational uses of the waterbody and surrounding areas; and characterization of aquatic plants present in the waterbody.

- B. The RECIPIENT shall research and report on aquatic plant control alternatives. This shall include but not be limited to: project management goals; overview and discussion of the various aquatic plant control methods available; and the advantages, disadvantages, necessary permits, costs, considerations and appropriateness for each method researched.
- C. Based upon literature reviews and research the RECIPIENT shall determine the preferred method of control for Eurasian watermilfoil, yellow flag iris and fragrant water lily in Lake Sawyer. Methods to control other invasive, noxious weeds will be included based on what is discovered in surveys. This will include a preferred option plan for all weeds containing a timeline, preferred control method, budget, public input and funding.

Required Performance:

1. Research of all existing information for the physical characteristics of Lake Sawyer and its surrounding watershed.
2. Research all existing treatment methods for *M. spicatum* and the associated details for each method.
3. Determine the preferred treatment option for Lake Sawyer based on findings.
4. Include all research results and findings in a document entitled Lake Sawyer Integrated Aquatic Vegetation Management Plan.
5. Submit Lake Sawyer IAVMP to the DEPARTMENT for approval by December 2014.

Total Task Cost \$ 14,974

**Task 3: Survey and Mapping**

- A. The RECIPIENT shall map the locations of the Eurasian watermilfoil in Lake Sawyer. This will include a two day survey effort in the late summer/early fall of 2012 and 2013 by the RECIPIENT. This survey will help determine the extent of the milfoil infestation and other plants present that might have a bearing on chosen method of treatment.
- B. The RECIPIENT shall map the locations of any other noxious, invasive weeds in or around Lake Sawyer. This will be part of the two day survey effort for milfoil in the late summer/early fall of 2012 and 2013 by the RECIPIENT. This survey will help determine the extent of the invasive weed infestation present that might have a bearing on chosen method of treatment
- C. If deemed necessary based on the visual survey done by the RECIPIENT, a contractor may be hired to perform a dive survey to further locate plant populations in the lake.

Required Performance

1. Use GPS to locate all *M. spicatum* populations and other invasive weeds during surveys.
2. Using GPS information, generate a location map with ArcView to be included in the IAVMP.

Total Task Cost \$ 10,110

**Task 4: Public Outreach**

- A. The RECIPIENT shall hold a minimum of two public meetings for the shoreline property owners and area residents at the beginning of the draft IAVMP effort to alert residents about the effort and

methods being considered to achieve the goals of aquatic weed management.

- B. In these first meetings an advisory committee of interested stakeholders will be established and may include local jurisdictions, area residents and community groups. The advisory committee will provide feedback on the IAVMP to the City of Black Diamond for consideration.
- C. A minimum of two further meetings will be held after completion of the Draft IAVMP for comments.
- D. Design and print any necessary materials to educate the Lake Sawyer community about the noxious weeds present in the lake and the IAVMP process.

Required Performance

- 1. Form an advisory committee of interested parties to review and comment on the Draft IAVMP.
- 2. Hold a minimum of four public meetings for the public. Two will be done prior to the completion of the Lake Sawyer Draft Integrated Aquatic Vegetation Management Plan and two will be held upon completion of the draft report in December 2014. Other meetings will be held as necessary both with the public and advisory committee depending on the needs of the project.
- 3. Solicit and respond to all comments for the Lake Sawyer IAVMP.
- 4. Design and print any materials deemed necessary to help educate the public about the noxious weeds and IAVMP process at Lake Sawyer.

Total Task Cost \$ 11,892

**1. PROPOSED BUDGET**

Please provide a budget, using one of the following formats. Provide the total cost of the project, not just the state share.

Budget by Task

Task 1 – Project Management	\$ 2,808.
Task 2 – Problem Assessment and Preferred Option	\$ 14,974
Task 3 – Survey and Mapping	\$ 10,110
Task 4 – Public Outreach	\$ 12,042
<b>Total</b>	<b>\$ 39,934</b>

-- OR --

Budget by Budget Object

Salaries, wages, and benefits (SWB): \$ \_\_\_\_\_

Indirect cost up to 25% of SWB:	\$ _____
Material, supplies	\$ _____
Equipment	\$ _____
Contracts	\$ _____
Other	\$ _____
In-kind contributions	\$ _____
<b>Total</b>	<b>\$ _____</b>

### 3. WATER QUALITY AND PUBLIC HEALTH IMPROVEMENTS

At a minimum, your response should answer these questions:

- Do the plants in this water body pose a threat of infestation to other nearby water bodies? *Include a map of the targeted water body with your application.*
- How is this aquatic plant or plants affecting the targeted water body or water bodies? What is the potential of the plant to impact the targeted water body or water bodies, and how will this project benefit the public?
- What are the project goals? What will you accomplish by undertaking this project?
- Does this project have statewide or regional significance?

Eurasian watermilfoil (*Myriophyllum spicatum*) is a submersed aquatic noxious weed that proliferates, forming dense mats of vegetation in the littoral zone of lakes and reservoirs. It reproduces by fragmentation and is often spread as fragments that "hitch-hike" on boat trailers from one lake to another. This noxious weed can degrade the ecological integrity of a water body in just a few growing seasons. Dense stands of milfoil crowd out native aquatic vegetation, which alter predator-prey relationships among fish and other aquatic animals. *M. spicatum* can also reduce dissolved oxygen – first by inhibiting water mixing in areas where it grows, and then as oxygen is consumed by bacteria during decomposition of dead plant material. Decomposition of *M. spicatum* also adds nutrients to the water that could contribute to increased algal growth and related water quality problems. Further, dense mats of *M. spicatum* can increase the water temperature by absorbing sunlight, create mosquito breeding areas, and negatively affect recreational activities such as swimming, fishing, and boating.

Fragrant waterlily (*Nymphaea odorata*) is a problematic weed that when left uncontrolled can form dense monospecific stands that persist until senescence in the fall. Mats of these floating leaves prevent wind mixing and create extensive areas of low oxygen under the water lily beds in the summer. Water lilies can restrict lakefront access and hinder swimming, boating, and other recreational activity. They may also limit Washington's native water lily (*Nuphar luteum*) as they overlap in distribution. As patches of lily connect, recreational activities such as boating, fishing, and swimming will become more difficult. Even canoes can have great difficulty moving across dense floating mats of fragrant water lily, not to mention entanglement

with propellers of boat motors. Lily stands can also hide milfoil beneath the floating mats, making milfoil control difficult and less effective.

Yellow flag iris can spread by rhizomes and typically forms dense stands that can exclude even the toughest of the native wetland species, such as *Typha latifolia* (cattail). Iris has already colonized large portions of the Lake Sawyer shoreline and threatens to disperse further if not controlled. In addition to lowering plant diversity, this noxious weed can also alter hydrological dynamics through sediment accretion along the shoreline. This species produces prolific seed that is easily transported downstream to invade other wetland areas.

Milfoil is the weed of greatest concern in the Lake Sawyer because of its proximity to the popular highways 169 and 18. Boats are trailered in and out of the lake and may continue on to other nearby lakes such as Pipe and Lucerne Lakes, Spring Lake, and Lake Wilderness. Eurasian watermilfoil has been eradicated from both Pipe and Lucerne Lakes and is currently being managed on Lake Wilderness and Spring Lake.

Reintroduction of *M. spicatum* to these waterbodies would detrimentally affect the work that has been ongoing in these lakes. It is important to write a Lake Sawyer IAVMP to create a comprehensive management strategy that will target the the noxious weed infestations in the lake and give the City of Black Diamond the opportunity to act quickly on the chosen management method to prevent further spreading of milfoil to nearby lakes.

In addition to writing a plan that includes the three main invasive weeds at Lake Sawyer, the surveys will also search for other possible noxious weeds such as purple loosestrife, brazilian elodea and narrow leaf cattail that could be in early colonization phases.

The goals of the creation of an IAVMP for Lake Sawyer are:

- 1) Fully assess and map the extent of the Eurasian watermilfoil infestation and other invasive weeds in Lake Sawyer.
- 2) Write a comprehensive plan that researches all available methods and costs for noxious, invasive aquatic weed removal. This document will also serve as a guide for the city of Black Diamond to make decisions and help guide other potential projects dealing with invasive aquatic weed removal.
- 3) Select an appropriate preferred treatment option for Lake Sawyer based on the noxious weeds found and create a comprehensive management plan around the selected treatment option.
- 4) Work with the Lake Sawyer property owners and other interested parties to educate them on the problem, include them in the discussion, and ask for feedback on the Draft Integrated Aquatic Vegetation Management Plan for Lake Sawyer.
- 5) Produce an IAVMP for the DEPARTMENT for approval.

The Lake Sawyer IAVMP project is a logical step in trying to combat the Eurasian milfoil problem in the lake and the region. It will allow for proper planning and research in trying to find the best milfoil management option. *M. spicatum*, *nymphaea odorata* and *iris pseudocora* are the three most problematic invasive, noxious weeds in Lake Sawyer. Because the lake has an enormous amount of boat traffic and public recreation, the proper management of these weeds would benefit the ecosystem, the citizens who use the lake for recreation, and the other regional lakes that are easily accessed by boaters visiting multiple lakes in a day.

#### 4. PROJECT TEAM

Please list the key people who will make this project a success. List the people who will actually lead or work on the project. Note their commitment to the project and any special skills they bring.

Beth leDoux, Water Quality Planner, King County: Ms. leDoux has been with King County Department of Natural Resources and Parks since 2003. She received a BA from Western Washington University in Environmental Studies and MEM from Yale University in watershed science. Her current work program includes the Hydrilla Eradication project on Pipe and Lucerne Lakes as well as Eurasian watermilfoil control project on Bass Lake. She is a licensed herbicide applicator and has been working on noxious, invasive aquatic weeds since 2003. In this project Ms. leDoux will be researching and writing the IAVMP, leading the field surveys and helping to host the public meetings.

Sally Abella, Freshwater Program group lead at King County: Ms. Abella managed the Lake Stewardship Program Manager from 2001 to 2011. Prior to that, she was a Research Scientist specializing in freshwater ecology at the University of Washington from which she received a BS in Geological Sciences and advanced degrees in Zoology and Botany. Ms. Abella will provide technical and editing support for the document and will participate in the public meetings.

Chris Knutson, Water Quality Planner, King County: Mr. Knutson has been with the King County Department of Natural Resources and Parks since 2009. He received his BA from Western Washington University in Environmental Studies. His current work program includes working on the volunteer monitoring program on the small lakes of King County, benthos sampling, fecal coliform studies and field surveys for noxious weeds. Mr. Knutson will help with writing and reviewing the IAVMP, helping on field surveys and participating in the public meetings.

Aaron Nix is a Parks/Natural Resources Director for the City of Black Diamond. He is a graduate of the Evergreen State College and Seattle University with degrees in Environmental Science and Public Administration respectively. Mr. Nix brings a tremendous amount of experience in state grant project management and aquatic management issues. Mr. Nix will be project manager of this project and be involved in all aspects of the project.

## 5. PROJECT DEVELOPMENT AND LOCAL SUPPORT

At a minimum, your response should answer these questions:

- Do you have local citizen support for the project--especially support of those citizens who live on, use, or have an interest in managing the aquatic plants in the targeted water body?
- What is your long-term commitment to this project? Are you prepared to continue implementation of long-term objectives without grant support?

The City of Black Diamond is committed to managing the project and providing the 25% match for this grant if awarded. Black Diamond has a vested interest as this lake is in their stewardship and the City owns a large portion of the south end of the lake in park land and the boat launch. Black Diamond is highly motivated to keep this lake free of noxious, invasive aquatic and terrestrial weeds.

There are many property owners along the shores of Lake Sawyer, and there is a very active community group that is involved in all different aspects of lake stewardship. While outreach has not occurred yet at this point for the IAVMP work, the community is well aware of the weed problem and participates in the King

County Weed Watcher and Lake Stewardship program. Meetings will be held throughout the LAVMP writing to get the community to understand and support the LAVMP goal and strategies prior to being submitted to the DEPARTMENT for approval.

As resources allow, the City of Black Diamond will continue with the recommendations and weed control methods offered by the LAVMP.

*To ask about the availability of this document in a version for the visually impaired call the Water Quality Program at 360-407-6502. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.*



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

COMMUNITY DEVELOP.

March 1, 2012

MAR 07 2012

RECEIVED

The Honorable Rebecca Olness, Mayor  
City of Black Diamond  
P.O. Box 599  
Black Diamond, WA 98010

Re: Aquatic Weeds Management Fund  
FY 2013 Funding Cycle  
Lake Sawyer Integrated Aquatic Vegetation AWMF Management Plan - App. #1307

Dear Mayor Olness:

I am pleased to inform you that the Department of Ecology (Ecology) is offering up to \$25,000 to the City of Black Diamond for the Lake Sawyer Integrated Aquatic Vegetation Management Plan (IAVMP). These funds are from the Aquatic Weeds Management Fund (AWMF).

Enclosed is the AWMF Final Offer and Applicant List (Offer List). The Offer List provides the priority of projects and estimated funding for each project.

Ecology has assigned the following Project Manager for your project:

Lizbeth Seebacher      Headquarters Office, Lacey      Project Manager      360-407-6938


Lizbeth will contact you soon to schedule a negotiation date. Ecology is committed to negotiating and signing a funding agreement by June 30, 2012. To meet this timeline, it is essential that negotiations and funding agreement development begin as soon as possible. Special grant conditions may also be required to ensure that your project is consistent with applicable state and federal laws and program requirements.

Be aware that costs incurred before the date of the Water Quality Program Manager's signature on the agreement, are not eligible for reimbursement.

We appreciate your commitment to improving Washington's water quality and look forward to working with you to make your project a success.

If you have any questions, please contact Lizbeth Seebacher at 360-407-6938 or [lsee461@ecy.wa.gov](mailto:lsee461@ecy.wa.gov).

Sincerely,



Kelly Susewind, P.E., P.G.  
Water Quality Program Manager

Enclosure

cc: Aaron Nix, City of Black Diamond  
Lizbeth Seebacher, Ecology FMS/HQ



**AQUATIC WEEDS MANAGEMENT FUND  
GRANT AGREEMENT  
BETWEEN THE  
STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND  
CITY OF BLACK DIAMOND**

THIS is a binding agreement entered into, by, and between the state of Washington Department of Ecology [DEPARTMENT] and City of Black Diamond [RECIPIENT]. The purpose of this agreement is to provide funds to the RECIPIENT to carry out the activities described herein.

**PART I. GENERAL INFORMATION**

Project Title: Lake Sawyer Integrated Aquatic Vegetation  
Management Plan

Grant Number: G1200433

**A. RECIPIENT Information**

RECIPIENT Name and Address City of Black Diamond  
Rebecca Olness, Mayor  
P.O. Box 599  
Black Diamond, Washington 98010

RECIPIENT Contact Aaron Nix  
Telephone Number: (360) 886-2560 x220  
Fax Number: (360) 886-2592  
E-mail Address: anix@ci.blackdiamond.wa.us

RECIPIENT Billing Contact Tracey Redd  
Telephone Number: (360) 886-5700  
Fax Number: (360) 886-2592  
E-mail Address: tredd@ci.blackdiamond.wa.us

RECIPIENT Federal ID Number: 91-6026204

**B. DEPARTMENT Information**

DEPARTMENT Address: Water Quality Program  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

DEPARTMENT Project Manager: Lizbeth Seebacher  
Telephone Number: (360) 407-6938

Lake Sawyer IAVMP  
City of Black Diamond  
AWMF Grant No. G1200433

Fax Number: (360) 407-7151  
E-mail Address: [Lizbeth.Seebacher@ecy.wa.gov](mailto:Lizbeth.Seebacher@ecy.wa.gov)

DEPARTMENT Funding Source: Aquatic Weeds Management Fund

DEPARTMENT Share: \$ 25,000  
RECIPIENT Share: \$ 14,934  
Total PROJECT Cost: \$ 39,934

DEPARTMENT Maximum Percentage: **The DEPARTMENT will reimburse eligible costs at 75 % up to the maximum DEPARTMENT share shown.**

The effective date of this agreement will be the date this agreement is signed by the DEPARTMENT's Water Quality Program Manager. Any work performed prior to the effective date of this agreement will be at the sole expense and risk of the RECIPIENT.

This agreement will expire no later than December 31, 2014.

## **PART II. POST PROJECT ASSESSMENT**

The RECIPIENT agrees to submit a brief survey regarding the key project results or aquatic plant management outcomes and the status of environmental results or goals from the project three years after project completion.

The DEPARTMENT's Water Quality Program Performance Measures Lead will contact the RECIPIENT before the Post Project Assessment date to request this data.

The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the Project, as part of this assessment.

Post Project Assessment Date: December 31, 2016.

Aquatic plant management project outcomes to be evaluated at the Post Assessment include:

- a) All physical characteristics of Lake Sawyer and surrounding watershed will be researched and added to the IAVMP.
- b) The invasive aquatic and emergent species in Lake Sawyer will be surveyed and mapped.
- c) The preferred treatment options for each species will be determined and added to the IAVMP.
- d) Four public meetings will be held educating the public about the IAVMP.
- e) An Integrated Aquatic Vegetation Management Plan will be submitted to Ecology.

### **PART III. PROJECT DESCRIPTION**

An Integrated Aquatic Vegetation Management Plan (IAVMP) is necessary in order to have a strategic plan for dealing with the several noxious weeds in and around Lake Sawyer. The RECIPIENT will survey the lake for current distribution of invasive weeds while writing the IAVMP. In addition to Eurasian milfoil, other invasive weeds such as Brazilian elodea, purple loosestrife and narrow leaf cattail will be mapped if found. These surveys will provide a current, complete list and map of problematic weeds, ensuring a comprehensive and effective management plan.

### **PART IV. PROJECT BUDGET**

Project Title: Lake Sawyer IAVMP			
TASKS	TOTAL ELIGIBLE COST (TEC)		
	FY1	FY2	Totals
Task 1. Project Management	\$2,808		\$2,808
Task 2. Lake Assessment	\$14,974		\$14,974
Task 3. Survey & Mapping	\$10,110		\$10,110
Task 4. Public Outreach	\$12,042		\$12,042
<b>Total*</b>	<b>\$39,934</b>		<b>\$39,934</b>
* The DEPARTMENT's Fiscal Office will track to the Total Eligible Project Cost.			
<b>MATCHING REQUIREMENTS</b>			
<b>DEPARTMENT Share</b>	\$25,000		\$25,000
<b>RECIPIENT Share</b> Eligible costs may consist of any combination of Cash, Interlocal, or In-kind contributions.	\$14,934		\$14,934
Adjustments to budget numbers between fiscal years must be approved by Ecology's project manager and are subject to funding availability.			

1. Payment Request Submittals: Payment requests will not be submitted more often than monthly, unless allowed by the DEPARTMENT's Project Manager. The DEPARTMENT's Project Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.
2. Payment Schedule: Payments will be made on a cost reimbursable basis.

## **PART V. SCOPE OF WORK**

### **Task 1 - Project Administration/Management**

- A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; attainment of all required permits, licenses, easements of property rights necessary for the project; and submittal of required performance items.
- B. The RECIPIENT will manage the project. Efforts will include conducting, coordinating, and scheduling of project activities, and assuring quality control. The RECIPIENT will make every effort to maintain effective communication with the RECIPIENT's designees, the DEPARTMENT, all affected local, state, or federal jurisdictions, and any interested individuals or groups. The RECIPIENT will carry out this project in accordance with any completion dates outlined in this Agreement.
- C. The RECIPIENT will submit all invoice vouchers, correspondence, and project documents, to the DEPARTMENT Project Manager. Invoice voucher submittals will include a state of Washington Invoice Voucher Form A19-1A, the appropriate B and C forms as described in the current edition of *Administrative Requirements for Ecology Grants and Loans*, and Form D (when applicable). Copies of all applicable forms will be included with an original A19-1A form, and will be submitted to the DEPARTMENT. Blank forms are found in the current edition of *Administrative Requirements for Ecology Grants and Loans* or electronic forms can be obtained from the Project Manager.

Reimbursements from the DEPARTMENT for invoice voucher submittals will be mailed to the RECIPIENT's designee at the following address:

Aaron Nix, Parks / Natural Resources Director  
P.O. Box 599  
Black Diamond, Washington 98010

- D. The RECIPIENT will submit to the DEPARTMENT the following documents and in the quantities identified:
- Draft IAVMP – electronic copy
  - Final IAVMP – electronic copy and two hard copies

The RECIPIENT will submit two copies of any document(s) that require DEPARTMENT approval.

- E. Required Performance:

1. Effective administration and management of this grant project.

2. Maintenance of all project records.
3. Submittal of all required performance items, progress reports, financial vouchers, and maintenance of all project records.

**Task 2 – Assessment and Preferred Option**

- A. The RECIPIENT will contract with a qualified aquatic plant management consultant, King County aquatic plant management personnel and/or use its own staff, to develop an Integrated Aquatic Vegetation Management Plan (IAVMP) that incorporates all the requirements for an IAVMP listed in the DEPARTMENT's Aquatic Weeds Management Fund program guidelines. The RECIPIENT, with input from interested residents and other members of the steering committee, will use *A Citizen's Manual for Developing Integrated Aquatic Vegetation Management Plans* to develop the IAVMP. This manual is available at:  
<http://www.ecy.wa.gov/programs/wq/plants/management/manual/index.html>.
- B. The RECIPIENT will research and report on information regarding Lake Sawyer including but not limited to: community make-up and history, watershed and waterbody characteristics; fish and wildlife communities; beneficial and recreational uses of the waterbody and surrounding areas; and characterization of aquatic plants present in the waterbody.
- C. Based upon literature reviews and research, the RECIPIENT will determine the preferred method of control for Eurasian watermilfoil, yellow flag iris and fragrant water lily in Lake Sawyer. The RECIPIENT will include methods to control other invasive, noxious weeds based on what is discovered in surveys. The RECIPIENT will identify a preferred option plan for all weeds containing a timeline, preferred control method, budget, public input and funding.
- D. If herbicide treatment is planned as part of the IAVMP, the RECIPIENT will address water right issues during the planning process. The RECIPIENT will attempt to identify those residents holding water rights on affected waters. In addition, the RECIPIENT will address human health and environmental concerns about herbicide use prior to its inclusion in the IAVMP.
- E. The RECIPIENT will submit the draft IAVMP to the DEPARTMENT no less than 30 days before the project completion date. Following this review, the RECIPIENT will prepare and submit to the DEPARTMENT a final IAVMP incorporating review comments. The DEPARTMENT recommends that the RECIPIENT submit the final plan through the State Environmental Policy Act (SEPA) process.
- F. Required Performance:
  1. The development of an IAVMP that meets the minimum standards for an IAVMP as set out in the Aquatic Weeds Grant Guidelines.

2. Research of all existing information for the physical characteristics of Lake Sawyer and its surrounding watershed.
3. Research all existing treatment methods for *M. spicatum* and the associated details for each method.
4. Determine the preferred treatment option for Lake Sawyer based on findings.
5. Include all research results and findings in a document entitled Lake Sawyer Integrated Aquatic Vegetation Management Plan.
6. Submittal of the draft IAVMP to the DEPARTMENT for review and comment.
7. Revision of the draft IAVMP according to comments received from the DEPARTMENT.

### **Task 3 – Survey and Mapping**

- A. The RECIPIENT will survey and map the locations of the Eurasian watermilfoil and any other noxious invasive weeds in Lake Sawyer in the late summer/early fall of 2012 and 2013. These surveys will help determine the extent of the milfoil infestation and other plants present that might have a bearing on chosen method of treatment.
- B. Required Performance:
  1. Effectively survey and map Eurasian watermilfoil and other noxious weeds in Lake Sawyer.

### **Task 4 – Public Outreach**

- A. The RECIPIENT will hold a minimum of two public meetings for the shoreline property owners and area residents at the beginning of the draft IAVMP effort to alert residents about the effort and methods being considered to achieve the goals of aquatic weed management.
- B. In these first meetings, the RECIPIENT will establish an advisory committee of interested stakeholders. The advisory committee may include representatives from local jurisdictions, area residents, and community groups. The advisory committee will provide feedback on the IAVMP to the City of Black Diamond for consideration.
- C. The RECIPIENT will hold a minimum of two further meetings will be held completion of the Draft IAVMP for comments.
- D. The RECIPIENT will design and print any necessary materials to educate the Lake Sawyer community about the noxious weeds present in the lake and the IAVMP process. The RECIPIENT will do a regional search for existing material before producing any new educational flyers or pamphlets.
- E. Required Performance:

1. Form an advisory committee of interested parties to review and comment on the Draft IAVMP.
2. Hold a minimum of four public meetings. Two will be held prior to the completion of the Lake Sawyer Draft IAVMP and two will be held upon completion of the draft IAVMP.
3. Solicit and respond to all comments for the Lake Sawyer IAVMP.
4. Design and print any materials needed to help educate the public about the noxious weeds and IAVMP process at Lake Sawyer.

## **VI. SPECIAL TERMS AND CONDITIONS**

- A. Conflict of Interest. The company, associated company, contractor, corporation, or individual writing and/or guiding the steering committee through the assessment of plant control options during development of this IAVMP (integrated aquatic vegetation management plan) shall not be considered for implementation of these control measures under state-funded projects.
- B. Use of Force Account. In the event the RECIPIENT elects to use its own forces to accomplish eligible project work, the RECIPIENT acknowledges that it has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT must track and report the force account work submitted to the DEPARTMENT for reimbursement.
- C. Indirect Rate. The RECIPIENT may charge an indirect rate of up to 25 percent based on employee's direct salary and benefit costs incurred while conducting project-related work. The DEPARTMENT's Financial Manager may require a list of items included in the indirect rate at any time.
- D. Match Requirement. Property and services donated by organizations or individuals to accomplish grant requirements may be used as in-kind match. Donated property and services must comply with the DEPARTMENT's current edition of *Administrative Requirements for Ecology Grants and Loans* and the Aquatic Weeds Management Fund Grant Guidelines (<http://www.ecy.wa.gov/biblio/9452.html>). Documentation will be maintained by the RECIPIENT for all donated property and services and made available for review by the DEPARTMENT on request.

Interlocal Match. The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements are consistent with all of the following:

1. Terms of this grant agreement
2. The edition of *Administrative Requirements for Ecology Grants and Loans* that is effective at the signing of this agreement.

3. Chapter 39.34 RCW Interlocal Cooperation Act

All negotiated interlocal agreements will be consistent with the terms of this grant Agreement, the DEPARTMENT's current edition (at the signing of this agreement) of *Administrative Requirements for Ecology Grants and Loans* and Chapter 39.34 RCW Interlocal Cooperation Act. Upon request, the RECIPIENT will submit a copy of the final negotiated interlocal agreement(s) to the DEPARTMENT's Project Manager.

- E. Meeting/Light Refreshments. The RECIPIENT may spend up to \$75 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed \$75 unless authorized in writing by the Project Manager.
- F. Minority and Women's Business Participation. The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

The RECIPIENT will report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. Please include the following information:

1. Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
2. The total dollar amount paid to qualified firms under this invoice.

- G. Procurement. The RECIPIENT may elect to use its own forces or may contract for professional services necessary to perform and complete project related work. The

RECIPIENT will ensure that this project is completed according to the details of this agreement. By signing this agreement, the RECIPIENT certifies that all applicable requirements have been satisfied in the procurement of any professional services. Upon request, the RECIPIENT will submit a copy of the final negotiated agreement(s) to the DEPARTMENT's Project Manager.

- H. Progress Reports. The RECIPIENT will submit semi-annual Progress Reports to the DEPARTMENT's Project Manager. Progress Reports for January 1 through June 30 are due July 15. Progress Reports for July 1 through December 31 are due January 15. Payment requests will not be processed if the required Progress Reports have not been submitted by the RECIPIENT.
- I. Time for Performance. In the event that the RECIPIENT fails to commence work on the PROJECT within four months after the effective date of this agreement, the DEPARTMENT reserves the right to terminate this agreement.


**VII. ALL WRITINGS CONTAINED HEREIN**

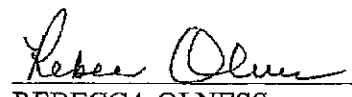
This Agreement, the appended General Terms and Conditions, the DEPARTMENT's current edition of *Administrative Requirements for Ecology Grants and Loans*, and the Aquatic Weeds Management Fund Grant Guidelines contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless signed by authorized representatives of the RECIPIENT and the DEPARTMENT and made a part of this Agreement, EXCEPT, that in response to a request from the RECIPIENT; the DEPARTMENT may change the grant expiration date. The DEPARTMENT or RECIPIENT may change their respective staff contacts without the concurrence of either party.

IN WITNESS WHEREOF, the parties sign this Grant:

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

CITY OF BLACK DIAMOND

 5/17/12  
\_\_\_\_\_  
KELLY SUSEWIND, P.E., P.G.      DATE  
WATER QUALITY PROGRAM MANAGER

 5-4-12  
\_\_\_\_\_  
REBECCA OLNESS      DATE  
MAYOR

APPROVED AS TO FORM ONLY  
ASSISTANT ATTORNEY GENERAL

RESOLUTION NO. 12-796

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE MAYOR TO EXECUTE AN  
AGREEMENT WITH THE WASHINGTON STATE  
DEPARTMENT OF ECOLOGY FOR THE ACCEPTANCE OF  
GRANT MONIES TO BE USED TOWARDS THE  
DEVELOPMENT OF AN INTEGRATED AQUATIC WEEDS  
MANAGEMENT PLAN FOR LAKE SAWYER

**WHEREAS**, in 2011, the City, in collaboration with King County 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

**WHEREAS**, this plan will help City staff, as well as the public look at alternatives and costs associated with controlling aquatic weeds in Lake Sawyer, therefore helping improve water quality within the lake; and


**WHEREAS**, the acceptance of the Integrated Aquatic Weeds Management Plan by the Department of Ecology will make the City eligible for future grant resources as it pertains to aquatic weed management in the lake;

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

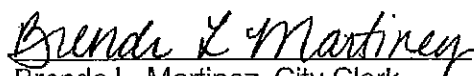
**Section 1.** The Mayor is hereby authorized to execute an agreement with the Washington State Department of Ecology in the acceptance of grant funds used towards the development of an Integrated Aquatic Weeds Management Plan for Lake Sawyer, substantially in the form attached hereto as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 3RD DAY OF MAY, 2012.**

CITY OF BLACK DIAMOND:

  
\_\_\_\_\_  
Rebecca Olness, Mayor

Attest:

  
Brenda L. Martinez, City Clerk

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Resolution No. 12-819, authorizing the Mayor to execute a contract with SubTerra, Inc. to serve as the geotechnical engineering consultant to the MDRT</b>	<b>Agenda Date: July 9, 2012</b>		<b>AB12 -051</b>
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Pete Butkus		
	City Attorney –Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact: variable	Comm. Dev. – Steve Pilcher	<b>X</b>	
Fund Source: pass-through expense to Master Developer			
Timeline: 2-year contract w/10 day call			
<b>Attachments:</b> Resolution No. 12-819 proposed contract			
<b>SUMMARY STATEMENT:</b>  <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDs are implemented over time. There will be significant needs for geotechnical engineering assistance in the review of specific implementing projects, particularly in the Lawson Hills MPD.</p> <p>In February, the City advertised in the Journal of Commerce, city website and official newspaper to solicit Statements of Qualifications from firms interested in performing this work. A total of 7 firms submitted their qualifications; two were selected to be interviewed. The interview panel consisted of Councilmember Craig Goodwin, Community Development Director Steve Pilcher and Parks/Natural Resources Director Aaron Nix. The interview panel's unanimous choice was to hire SubTerra, Inc.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). Consistent with past direction from the Council, the contract period is two years with a 10-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>This is the last MDRT consultant contract anticipated at this time.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> Councilmember Goodwin participated in the interview process; reviewed and approved by the Finance Committee on June 14, 2012.			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-819, authorizing the Mayor to execute a contract with SubTerra, Inc. to serve as geotechnical engineering consultant to the MDRT</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
July 9, 2012			

## **RESOLUTION NO. 12-819**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SUBTERRA, INC. TO SERVE AS THE GEOTECHNICAL ENGINEERING CONSULTANT TO THE MASTER DEVELOPMENT REVIEW TEAM.**

**WHEREAS**, in 2010, the City Council approved Master Planned Development permits for The Villages and Lawson Hills MPDs; and

**WHEREAS**, in 2011, the City Council approved Development Agreements for The Villages and Lawson Hills MPDs; and

**WHEREAS**, as part of its consideration and approval of the Development Agreements, the City also entered into a new Funding Agreement with BD Village Partners and BD Lawson Partners; and

**WHEREAS**, the Funding Agreement calls for the establishment of a Master Development Review Team (MDRT), to consist of City staff and outside consultants; and

**WHEREAS**, the City does not have sufficient staff resources nor the expertise to provide geotechnical engineering review services to meet the needs of the MDRT; and

**WHEREAS**, private firms providing survey review services were invited to submit Statements of Qualifications for review and consideration; and

**WHEREAS**, a panel consisting of staff and one City Council member reviewed the submittals, subsequently interviewed two firms and then recommended SubTerra, Inc. as the firm most capable of providing survey review services as desired;

**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 contract with SubTerra, Inc. as attached hereto as Exhibit A to provide geotechnical engineering review services for the MDRT.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A SPECIAL MEETING THEREOF, THIS 9<sup>th</sup> DAY OF JULY, 2012.**

CITY OF BLACK DIAMOND:

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Rebecca Olness, Mayor

Attest:

---

Brenda L. Martinez, City Clerk

## **CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated \_\_\_\_\_, 2012 and is entered into by and between

CITY OF BLACK DIAMOND, WASHINGTON (the "City")

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: \_\_\_\_\_ Phone: 360-886-5700 Fax : 360-886-2592

and

SubTerra, Inc. ("Consultant")

Physical Address: 218 East North Bend Way, North Bend, WA 98045

Mailing Address: P.O. Box 520, North Bend, WA 98045

Contact: Dr. Chris Breeds Phone: 425-888-5425 Fax: 425-888-2725

Tax Id No.: 91-

for professional services in connection with the following project:

On-call Geotechnical Consulting services on an as-needed basis to conduct third-party development reviews associated with site investigation, geologic hazards evaluation, site planning / design and construction for the Villages and Lawson Hills Master Planned Developments.

### **TERMS AND CONDITIONS**

#### **1. Services by Consultant**

1.1 Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by Consultant shall not exceed the Scope of Work nor shall the Consultant be entitled to a greater amount of compensation as that provided in this Agreement without the prior written authorization of the City.

1.2 The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to this Agreement.

1.3 Consultant represents and warrants that it, its staff to be assigned to the Project, and its subconsultants and their staff have the requisite training, skill, and experience necessary to provide the services required by this Agreement and are appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant and its

subconsultants under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

## **2. Schedule of Work**

2.1 Consultant shall perform the services described in the Scope of Work in accordance with the Schedule attached to this contract as Exhibit "B."

2.2 Time is of the essence as to the work provided in the Scope of Work. Consultant will diligently proceed with the work and shall assure that it, and its subconsultants, will have adequate staffing at all times in order to complete the Scope of Work in a timely manner. If factors beyond Consultant's control that could not have been reasonably foreseen as of the date of this Agreement cause delay, then the parties will negotiate in good faith to determine whether an extension is appropriate. The Consultant shall provide the City with written notice of any delay, or potential delay, that may trigger the need for a time extension within 3 business days after the Consultant becomes aware of the delay or potential delay.

2.3 Consultant is authorized to proceed with services upon execution of this agreement.

## **3. Compensation**

TIME AND MATERIALS. Compensation for the services provided in the Scope of Work shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "C."

## **4. Payment**

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

4.2 All invoices shall be paid by City warrant within sixty (60) days of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

4.3 Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Consultant shall make copies available to the City on request.

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

## **5. Discrimination and Compliance with Laws**

5.1 Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

5.2 Consultant and its subconsultants shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

5.3 Any violation of this Section 5 shall be a material breach of this Agreement and grounds for immediate cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in Consultant's ineligibility to conduct further work for the City.

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

6.1 The City reserves the right to terminate or suspend this Agreement at any time, without cause, by giving Consultant notice in writing ten (10) days prior to the termination or suspension date. In the event of termination, all finished or unfinished reports, or other material prepared by Consultant pursuant to this Agreement, shall be submitted to the City. In the event the City terminates this Agreement prior to completion without cause, Consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to compensation for any satisfactory work completed on the Project prior to the date of suspension or termination.

6.2 Any notice from the City to Consultant regarding the suspension of this Agreement shall specify the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Consultant's reasonable expenses and shall be subject to verification. Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

## **7. Standard of Care**

7.1 Consultant represents and warrants that it has the requisite training, skill, and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services Consultant provides under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances. . Consultant understands and agrees that the services rendered pursuant to this Agreement are for the sole exclusive benefit of the City and that no third party shall have authority to authorize, approve, direct or control any of the services rendered to the City pursuant to this Agreement.

## **8. Ownership of Work Product**

8.1 Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall be vested in the City and shall be submitted to the City upon termination of this Agreement. Any reuse of these materials by the City for projects or purposes other than those that fall within the scope of this Agreement and the Project to which it relates, without written concurrence by Consultant, will be at the sole risk of the City.

8.2 The City acknowledges Consultant's documents as instruments of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the work. The City agrees to hold harmless and indemnify Consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of the City's reuse of such documents beyond the use for which they were originally intended without the written authorization of Consultant.

8.3 Methodology, software, logic, and systems developed under this Agreement are the property of Consultant and the City, and may be used as either Consultant or the City see fit, including the right to revise or publish the same without limitation.

## **9. Indemnification/Hold Harmless**

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising directly or indirectly out of or resulting from the acts, errors, or omissions of Consultant or its subconsultants in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Provided, however, that if any such claims, injuries, damages, losses or suits result from the concurrent negligence of Consultant and the city, it is expressly agreed that Consultant's obligations and indemnity under this paragraph shall be effective only to the extent of Consultant's negligence.

## **10. Insurance**

10.1 Consultant shall procure and maintain for the duration of the Agreement, and shall provide proof satisfactory to the City that such insurance is procured and maintained by each of its subconsultants, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees.

10.2 Consultant shall procure and maintain the following types and amounts of insurance:

a. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. This insurance shall have a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors, personal injury, and advertising injury. This insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

d. Professional Liability insurance appropriate to Consultant's profession, with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

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

a. Consultant's insurance coverage shall be primary insurance vis-à-vis the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess over Consultant's insurance and shall not contribute with it.

b. Consultant's insurance shall be endorsed to state that coverage shall not be cancelled, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

10.4 The City shall be named as an additional insured under Consultant's Automobile Liability and Commercial General Liability insurance policies with respect to the work to be performed for the City pursuant to this Agreement.

10.5 Insurance shall be placed with insurers with a current A.M. Best rating of not less than A:VII.

10.6 Declaration pages issued by the insurance carriers for the policies mentioned in this Section 10 showing such insurance to be in force shall be filed with the City not less than ten (10) days following both parties signing this Agreement and before commencement of the work. In addition, the City may request, in writing, a full copy from Consultant of any insurance policy Consultant must procure and maintain pursuant to this Agreement and Consultant must provide such copy to the City within ten (10) days of Consultant's receipt of the City's request. Any policy or required insurance written on a claims-made basis shall provide coverage as to all claims arising out of the services performed under this Agreement and for three (3) years following completion of the services to be performed. It shall be a material breach of this Agreement for Consultant to fail to procure and maintain the insurance required by this Section 10 or to provide the proof of such insurance to the City as provided for in this Agreement.

## **11. Assigning or Subcontracting**

11.1 Consultant shall not assign, transfer, subcontract, or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld at the sole discretion of the City.

**12. Independent Contractor**

12.1 Consultant and its subconsultants are, and shall be at all times during the term of this Agreement, independent contractors.

**13. Notice**

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

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

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

Consultant: Dr. Chris Breeds  
SubTerra, Inc.  
P.O. Box 520  
North Bend, WA 98045  
Fax: 425-888-2725

**14. Disputes**

14.1 Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in King County Superior Court, Kent, Washington.

**15. Attorney Fees**

15.1 In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party.

**16. General Administration and Management on Behalf of the City**

16.1 The City Administrator for the City, or his/her designee( the contract Administrator) shall review and approve Consultant's invoices to the City under this Agreement and shall have primary responsibility for overseeing and approving work or services to be performed by Consultant. . Consultant understands and agrees that any and all work to be performed pursuant to this Agreement must be approved in advance by the contract Administrator. No third party, including the project applicant, shall have any direct control or influence over the services performed under this Contract.

**17. Extent of Agreement/Modification**

17.1 This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. After City Council approval, this Agreement shall be in effect as of June XX, 2012 and shall remain in effect until June XX, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

**18. Conflict of Interest; Non-Collusion**

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The Consultant further covenants that, in performance of this Contract, no person having any such interest shall be employed by the Consultant. The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the project applicant or any affiliate or agent of the project applicant.

18.2 The Contractor warrants and represents that the Contractor has not, nor has any other member, employee, representative, agent or officer of the Contractor, entered into or offered to enter into any combination, collusion or agreement with any person or entity to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of this Contract other than the consideration offered pursuant to the terms and conditions hereof.

CITY OF BLACK DIAMOND

CONSULTANT

By: \_\_\_\_\_

Rebecca Olness

Its: Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name:

Chris D. Breeds

Its:

President

Date: \_\_\_\_\_

Attest:

By:

\_\_\_\_\_  
Brenda L. Martinez

City Clerk

The City of Black Diamond will contract with SubTerra Inc. to provide on-call Geotechnical Consulting services on an as-needed basis to conduct third-party development reviews associated with site investigation, geologic hazards evaluation, site planning / design and construction for the Villages and Lawson Hills Master Planned Developments.

SubTerra, Inc. Geotechnical Consulting work will include review of geological and engineering studies and engineering designs for abandoned coal mines, steep slopes, site improvements, rockeries and retaining structures, impoundments, embankments, etc. as further described in the Black Diamond Municipal Code and provisions of the planned MPDs.

Consulting services may generally include the following tasks as requested by the City:

1. Pre-submittal consultation with applicants and city staff.
2. Participation in Preliminary Design meetings and other activities as a Member of the Master Development Review Team (MDRT).
3. Review and preparation of written comments on submitted applications, sensitive areas studies, SEPA Checklists/EISs, mitigation plans, and related documents prepared by others for the purpose of coal mine hazards areas identification, review of impacts, and mitigation evaluation.
4. Field inspections and field observations of Applicant site investigation programs to verify existing site conditions.
5. Conducting record research, locating abandoned coal mine features and workings and assembling as drawings/exhibits in support of the City's evaluation of abandoned coal mine studies submitted by Applicant.
6. Review and preparation of written comments on submitted engineering drawings, utilities plans, grading plans, stormwater management plans, stream culvert designs, geotechnical reports, and other reports, studies, and drawings for the evaluation of compliance with city codes and standards and any applicable provisions of the approved MPDs.
7. Review and preparation of written comments on exceptions, variances, or other requested deviations from Code.
8. Review and preparation of written comments on draft sensitive areas notices to be recorded on title.
9. Review and preparation of written comments on mitigation, maintenance, and monitoring costs estimates for the posting of financial guarantees, if required, by applicants.
10. Verbal and written correspondence and coordination with applicants and/or City staff.
11. Assistance with staff reports and preparation/review of meeting/hearing materials and exhibits.
12. Interagency coordination.
13. Attendance and/or testimony at city council or other public meetings or hearings.
14. Pre-construction meeting attendance and related correspondence.
15. Review and findings of demarcated boundaries and fencing limits for the protection of coal mine hazard areas by applicants prior to the commencement of construction.
16. Construction and post-construction related third-party monitoring inspections, compliance reviews and reports during construction of individual engineering projects.
17. Review of any reported violations and subsequent corrective restoration or mitigation for violations caused by applicants or their contractors.

# City of Black Diamond On-Call Task Request

Date: _____	City Staff Contact: _____
Project Name: _____	Phone: 360-886-5700
Project No.: _____	Fax: 360-886-2592
Request Made To: _____	
Phone: _____	
Fax: _____	

<b>Scope of Task Request</b>

<b>Budget Estimate: \$</b>

<b>Task Request Approval:</b>			
	Written Name		Title
	Signature		Date

\*Costs are billed on a time and materials basis, the Consultant shall notify the City should additional funds be necessary to complete the task order. Additional work beyond that which is ordered by the City shall not commence until written notification is received from the City.

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# SubTerra, Inc.

## Payment Terms and Rate Sheet

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SubTerra, Inc. is an Engineering Corporation offering engineering services in the mining, civil, and geotechnical fields. We also rent, lease, and sell equipment related to these fields including blast monitoring equipment, instrumentation, excavation profiling and surveying, and tunneling equipment

The following paragraphs and table provide a rate structure for our services and associated payment terms and conditions.

<u>Rates for Technical Professional Services</u>	Rate
Principal	155.00
Associate	135.00
Senior	125.00
Project	115.00
Staff	105.00
Senior Drafter	95.00
Drafter	85.00
Senior Independent Associate	175.00
Instrumentation Technician	95.00
CM Senior Inspector	105.00
CM Technician/Inspector	95.00
Secretarial and Administration	6% of Labor

### Payment Terms for Technical Services

We invoice monthly for technical services, usually on or near the first of the month. For time and materials contracts, invoices are provided that delineate hours worked by discipline or personnel, other direct costs (e.g., subcontractors, travel, copying, telephone, etc.) that are directly attributable to the project, and a markup of 10% on other direct costs that recovers associated general and administrative costs, B&O taxes, and PI insurance. Subject to prior agreement with Client, an additional management fee may be added to subcontractors to cover associated administrative costs. These costs will have already been incurred and paid by us on your behalf. The invoice is therefore payable on receipt and is considered past due 10 days from the invoice date.

### Payment Terms for Rental, Lease or Purchase of Equipment

Terms will be as noted on our Instrument and Equipment Rental Agreement, Sales Contract, or Lease Agreement.

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Resolution No. 12-820, authorizing the Mayor to execute a contract with Parametrix to serve as the survey consultant to the MDRT</b>	Agenda Date: July 9, 2012		AB12-052
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Pete Butkus		
	City Attorney – Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact: variable	Comm. Dev. – Steve Pilcher	X	
Fund Source: pass-through expense to Master Developer			
Timeline: 2-year contract w/10 day call			
<b>Attachments:</b> Resolution No. 12-820, proposed contract			
<b>SUMMARY STATEMENT:</b>  <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDs are implemented over time. There will be significant needs for professional land surveyor (PLS) assistance in the review of specific implementing projects (primarily plats).</p> <p>In February, the City advertised in the Journal of Commerce, city website and official newspaper to solicit Statements of Qualifications from firms interested in performing this work. A total of 7 firms submitted their qualifications; three were selected to be interviewed. The interview panel consisted of Councilmember Carol Benson, Asst. City Administrator/City Clerk Brenda Martinez and Community Development Director Steve Pilcher. The interview panel's unanimous choice is to hire Parametrix.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). Consistent with past direction from the Council, the contract period is two years with a 10-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>This is the last MDRT consultant contract anticipated at this time.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> Councilmember Benson participated in the interview process; reviewed and approved by the Finance Committee on June 14, 2012.			
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-820, authorizing the Mayor to execute a contract with Parametrix to serve as survey consultant to the MDRT.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
July 9, 2012			

## **RESOLUTION NO. 12-820**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PARAMETRIX TO SERVE AS THE SURVEY CONSULTANT TO THE MASTER DEVELOPMENT REVIEW TEAM**

**WHEREAS**, in 2010, the City Council approved Master Planned Development permits for The Villages and Lawson Hills MPDs; and

**WHEREAS**, in 2011, the City Council approved Development Agreements for The Villages and Lawson Hills MPDs; and

**WHEREAS**, as part of its consideration and approval of the Development Agreements, the City also entered into a new Funding Agreement with BD Village Partners and BD Lawson Partners; and

**WHEREAS**, the Funding Agreement calls for the establishment of a Master Development Review Team (MDRT), to consist of City staff and outside consultants; and

**WHEREAS**, the City does not have on sufficient staff resources nor the expertise to provide survey review services to meet the needs of the MDRT; and

**WHEREAS**, private firms providing survey review services were invited to submit Statements of Qualifications for review and consideration; and

**WHEREAS**, a panel consisting of staff and one City Council member reviewed the submittals, subsequently interviewed three firms and then recommended Parametrix as the firm most capable of providing survey review services as desired;

**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 contract with Parametrix to provide survey review services for the MDRT.

**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:

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Rebecca Olness, Mayor

Attest:

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Brenda L. Martinez, City Clerk

## **CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated \_\_\_\_\_, 2012 and is entered into by and between

CITY OF BLACK DIAMOND, WASHINGTON (the "City")

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: \_\_\_\_\_ Phone: 360-886-5700 Fax : 360-886-2592

and

Parametrix ("Consultant")

1019 39<sup>th</sup> Avenue SE, Suite 100

Puyallup, WA 98374

Contact: Kathleen Cassou Phone: 253-604-6600 Fax: 253-604-6799

Tax Id No.: 91-0914810

for non-exclusive on-call professional services in connection with the following project:

Master Development Survey Review Services on a Task Order basis (the "Project").

### **TERMS AND CONDITIONS**

#### **1. Services by Consultant**

1.1 Consultant has been retained by the City to provide professional survey on-call services as generally described in the Scope of Work attached to this Agreement as Exhibit "A". The services performed by Consultant shall not exceed the Scope of Work nor shall the Consultant be entitled to a greater amount of compensation as that provided in this Agreement without the prior written authorization of the City.

1.2 The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to this Agreement.

1.3 Consultant represents and warrants that it, its staff to be assigned to the Project, and its subconsultants and their staff have the requisite training, skill, and experience necessary to provide the services required by this Agreement and are appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant and its subconsultants under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

## **2. Schedule of Work**

2.1 The City will issue an on-call task request for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on-call task request issued by the City in the form attached as Exhibit "B." Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (the "Task Scope of Work").

2.2 Consultant will work within the project schedule set forth in the on-call task request and will diligently proceed with the work and shall assure that it, and its subconsultants, will have adequate staffing at all times in order to complete the Scope of Work in a timely manner. If factors beyond Consultant's control that could not have been reasonably foreseen as of the date of this Agreement cause delay, then the parties will negotiate in good faith to determine whether an extension is appropriate. The Consultant shall provide the City with written notice of any delay, or potential delay, that may trigger the need for a time extension within 3 business days after the Consultant becomes aware of the delay or potential delay.

2.3 Consultant is authorized to proceed with services upon receipt of a signed task order.

## **3. Compensation**

3.1 Rates. Compensation for the services provided pursuant to each on-call task request shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "C". Consultant may adjust the billing rates and reimbursable expenses once each calendar year on or after January 1st by providing the City with written notice of the adjusted rates and expenses no less than (30) thirty days prior to the effective date of such adjustment. The billing rates and reimbursable expenses for on-call task orders issued prior to receipt of written notice of the rate/expense adjustment by the City shall not be affected by the adjustment.

3.2 Other. In the event that after commencement of work, the Consultant anticipates that the work for an on-call task request will exceed the initial amount authorized, Consultant shall promptly notify the City and provide the City with whatever documents or information is necessary to request approval of any amounts in excess thereof.

## **4. Payment**

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

4.2 All invoices shall be paid by City warrant within sixty (60) days of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

4.3 Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Consultant shall make copies available to the City on request.

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

## **5. Discrimination and Compliance with Laws**

5.1 Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

5.2 Consultant and its subconsultants shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

5.3 Any violation of this Section 5 shall be a material breach of this Agreement and grounds for immediate cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in Consultant's ineligibility to conduct further work for the City.

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

6.1 The City reserves the right to terminate or suspend this Agreement at any time, without cause, by giving Consultant notice in writing ten (10) days prior to the termination or suspension date. In the event of termination, all finished or unfinished reports, or other material prepared by Consultant pursuant to this Agreement, shall be submitted to the City. In the event the City terminates this Agreement prior to completion without cause, Consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to compensation for any satisfactory work completed on the Project prior to the date of suspension or termination.

6.2 Any notice from the City to Consultant regarding the suspension of this Agreement shall specify the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Consultant's reasonable expenses and shall be subject to verification. Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

## **7. Standard of Care**

7.1 Consultant represents and warrants that it has the requisite training, skill, and experience necessary to provide the services under this Agreement and is appropriately

accredited and licensed by all applicable agencies and governmental entities. Services Consultant provides under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances. Consultant understands and agrees that the services rendered pursuant to this Agreement are for the sole exclusive benefit of the City and that no third party shall have authority to authorize, approve, direct or control any of the services rendered to the City pursuant to this Agreement.

## **8. Ownership of Work Product**

8.1 Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall be vested in the City and shall be submitted to the City upon termination of this Agreement. Any reuse of these materials by the City for projects or purposes other than those that fall within the scope of this Agreement and the Project to which it relates, without written concurrence by Consultant, will be at the sole risk of the City.

8.2 The City acknowledges Consultant's documents as instruments of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the work. The City agrees to hold harmless and indemnify Consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of the City's reuse of such documents beyond the use for which they were originally intended without the written authorization of Consultant.

8.3 Methodology, software, logic, and systems developed under this Agreement are the property of Consultant and the City, and may be used as either Consultant or the City see fit, including the right to revise or publish the same without limitation.

## **9. Indemnification/Hold Harmless**

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and agents harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising directly or indirectly out of or resulting from the acts, errors, or omissions of Consultant or its subconsultants in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. PROVIDED, HOWEVER, THAT IF ANY SUCH CLAIMS, INJURIES, DAMAGES, LOSSES OR SUITS RESULT FROM THE CONCURRENT NEGLIGENCE OF CONSULTANT AND THE CITY, IT IS EXPRESSLY AGREED THAT CONSULTANT'S OBLIGATIONS AND INDEMNITY UNDER THIS PARAGRAPH SHALL BE EFFECTIVE ONLY TO THE EXTENT OF CONSULTANT'S NEGLIGENCE.

## **10. Insurance**

10.1 Consultant shall procure and maintain for the duration of the Agreement, and shall provide proof satisfactory to the City that such insurance is procured and maintained by each of its subconsultants, insurance against claims for injuries to persons or damage to

property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees.

10.2 Consultant shall procure and maintain the following types and amounts of insurance:

a. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. This insurance shall have a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors, personal injury, and advertising injury. This insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

d. Professional Liability insurance appropriate to Consultant's profession, with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

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

a. Consultant's insurance coverage shall be primary insurance vis-à-vis the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess over Consultant's insurance and shall not contribute with it.

b. Consultant's insurance shall be endorsed to state that coverage shall not be cancelled, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

10.4 The City shall be named as an additional insured under Consultant's Automobile Liability and Commercial General Liability insurance policies with respect to the work to be performed for the City pursuant to this Agreement.

10.5 Insurance shall be placed with insurers with a current A.M. Best rating of not less than A:VII.

10.6 Declaration pages issued by the insurance carriers for the policies mentioned in this Section 10 showing such insurance to be in force shall be filed with the City not less than ten (10) days following both parties signing this Agreement and before commencement of the work. In addition, the City may request, in writing, a full copy from Consultant of any insurance policy Consultant must procure and maintain pursuant to this Agreement and Consultant must provide such copy to the City within ten (10) days of Consultant's receipt of the City's request. Any policy or required insurance written on a claims-made basis shall provide coverage as to all claims arising out of the services performed under this Agreement and for three (3) years following completion of the services to be performed. It shall be a material breach of this

Agreement for Consultant to fail to procure and maintain the insurance required by this Section 10 or to provide the proof of such insurance to the City as provided for in this Agreement.

**11. Assigning or Subcontracting**

11.1 Consultant shall not assign, transfer, subcontract, or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld at the sole discretion of the City.

**12. Independent Contractor**

12.1 Consultant and its subconsultants are, and shall be at all times during the term of this Agreement, independent contractors.

**13. Notice**

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

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

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

Consultant: Kathleen Cassou  
Parametrix, Inc.  
1019 39<sup>th</sup> Ave SE, Suite 100  
Puyallup, WA 98374  
Fax: 253-604-6799

**14. Disputes**

14.1 Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in King County Superior Court, Kent, Washington.

**15. Attorney Fees**

15.1 In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party.

**16. General Administration and Management on Behalf of the City**

16.1 The City Administrator for the City, or his/her designee(the contract Administrator) shall review and approve Consultant's invoices to the City under this Agreement and shall have primary responsibility for overseeing and approving work or services to be performed by Consultant. Consultant understands and agrees that any and all work to be performed pursuant to this Agreement must be approved in advance by the contract Administrator. No third party, including the project applicant, shall have any direct control or influence over the services performed under this Contract.

**17. Extent of Agreement/Modification**

17.1 This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. After City Council approval, this Agreement shall be in effect as of June 14, 2012, and shall remain in effect until June 30, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

**18. Conflict of Interest; Non-Collusion**

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the project applicant or any affiliate or agent of the project applicant.

18.2 The Consultant warrants and represents that the Consultant has not, nor has any other member, employee, representative, agent or officer of the Consultant, entered into or offered to enter into any combination, collusion or agreement with any person or entity to receive or pay, and that he has not received or paid, any sum of money or other consideration

for the execution of this Contract other than the consideration offered pursuant to the terms and conditions hereof.

CITY OF BLACK DIAMOND

CONSULTANT

By: \_\_\_\_\_

Rebecca Olness

Its: Mayor

Date: \_\_\_\_\_

By: Kathleen Cassou

Printed Name: Kathleen Cassou

Its: Survey Manager

Date: 6/12/12

Attest:

By:

\_\_\_\_\_  
Brenda L. Martinez

City Clerk

**EXHIBIT A**  
**Master Development Review Team**  
**Scope of Survey Work**

**Primary Task Responsibilities**

- Land Use Application Review – Assuring Submittals Meet State and Local Survey Related Requirements and Compliance with Master Development Agreements
  - Road Vacations and Dedications
  - Wetland Buffer Compliance
  - Boundary Line Adjustments
  - Final Plats
  - Short Plats
  - Binding Site Plans
  - Condominium Plats
  - Legal Descriptions
- MDR Team Participation, Meetings, Reports

**Supplemental Task Responsibilities**

- Horizontal and Vertical Control Verification
  - Establish Network
  - Benchmarks
  - Monument Preservation and Perpetuation
  - DNR Required Monument Destruction Permits
- Boundary
  - Section Subdivision
  - Deed Interpretation
  - Historical Ownership – Chain of Title
  - Riparian Rights
  - Railroad Easements and ROW
- Right of Way
  - Determination and Mapping ROW, Easements, Tracts, etc.
  - ROW Acquisition Assistance
- Construction Support
  - Review of Plans – Constructibility
- Mapping
  - Topographic Mapping and Base Map
  - High Definition – 3D Scanning
  - FEMA Elevation Certificates
  - Wetland Mapping and Buffer Establishment

## Exhibit B

# City of Black Diamond On-Call Task Request

Date:	_____	City Staff Contact:	_____
Task Name:	_____	Phone:	360-886-5700
Consultant Project No.:	_____	Fax:	360-886-2592
Consultant Contact Name:	_____		
Consultant Phone:	_____		
Consultant Fax:	_____		

### Scope of Task Request

[illegible]

**Budget Estimate:**

\_\_\_\_\_

**Task Request Approval:**

City of Black Diamond:

Written Name	Title
Signature	Date

Consultant:

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Written Name	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Title
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date

\*Costs are billed on a time and materials basis, the Consultant shall notify the City should additional funds be necessary to complete the task order. Additional work beyond that which is ordered by the City shall not commence until written notification is received from the City.

**EXHIBIT C  
CITY OF BLACK DIAMOND  
MASTER DEVELOPMENT REVIEW TEAM  
SURVEY BILLING RATE SCHEDULE**

<b><u>Classification</u></b>	<b><u>Hourly Billing Rate</u></b>
Principal	\$215.00
Survey Division Manager	\$175.00
Survey Project Manager	\$145.00
Survey Office Technician	\$85.00 - \$104.00
Survey CADD Technician	\$72.00 - \$85.00
Field Survey Party Chief	\$98.00 - \$105.00
Field Survey Crew Member	\$65.00 - \$78.00
Administrative Project Support	\$80.00
Expert Witness Testimony	\$250.00

**Direct project expenses and reproduction costs are billed at cost plus 15%**  
**Mileage expense is billed at current approved IRS mileage rate**  
**Lodging and PerDiem costs are billed at current GSA rates**  
**Survey equipment except laser scanner billed at \$150/day**  
**Laser Scanner is billed at \$97.40/hour**

**Prevailing Wage Rates apply to construction surveying on all Public Works projects (See Washington State Prevailing Wage Schedule for each County)**

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Resolution 12-821, authorizing the Mayor to issue a Special Events Permit for Xterra Black Diamond 2012</b>	<b>Agenda Date: July 9, 2012</b>		<b>AB12-053</b>
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Pete Butkus		
	City Attorney –Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact:	Court – Stephanie Metcalf		
Fund Source: applicant	Comm. Dev. – Steve Pilcher	<b>X</b>	
Timeline: August 4 <sup>th</sup> & 5 <sup>th</sup> , 2012			
<b>Attachments: Resolution 12-821, Application, Staff Comments</b>			
<b>SUMMARY STATEMENT:</b>  <p>This year's Xterra Black Diamond Triathlon is proposed to take place on August 4-5, 2012. The race includes a swim in Lake Sawyer, a bike race and run in Lake Sawyer Park and adjoining private property. On Saturday, event organizers will set up for the race. The actual races will take place on Sunday. There is a half and full triathlon race for adults. There will also be mini race for kids.</p> <p>As part of the event, Xterra has requested permission for 15 campsites to be used for out-of-town competitors. A total of 4 portable toilets will be provided on-site, along with one hand-washing station. No more than 100 vehicles will be parked on-site on the weekend; additional off-street parking has been arranged at Sawyer Woods Elementary School, as was done last year.</p> <p>The event will use an off duty police officer to ensure safe crossing of pedestrians from the school to the event location. In addition, EMS personnel from Fire District 44 will also be available on race day. These services are being paid by Xterra. The event is being sponsored by local businesses and the coordinators will encourage participants to visit local businesses after the race.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> Reviewed and approved by the Parks Committee at its June 21 <sup>st</sup> meeting.			
<b>RECOMMENDED ACTION:</b> <b>MOTION to adopt resolution 12-821 approving the Xterra Special Event SEP12-0001</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
July 9, 2012			

**RESOLUTION NO. 12-821**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
AUTHORIZING THE CITY COUNCIL TO APPROVE THE  
XTERRA SPECIAL EVENT SEP12-0001**

**WHEREAS**, Black Diamond Municipal Code 2.59.040(B) requires the City Council to approve any special event that exceeds one day in duration; and

**WHEREAS**, the Xterra Triathlon Race has occurred annually in the Lake Sawyer Park and surrounding lands beginning in 2008; and

**WHEREAS**, Raise the Bar LLC proposes to use the Lake Sawyer Park and adjoining private properties to hold the 5th Annual Xterra Black Diamond Triathlon on August 4-5, 2012; and

**WHEREAS**, City staff has reviewed the proposal and proposed conditions of approval that will ensure the public interest is protected during this activity;

**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 the approval of special event permit SEP12-0001 for the Xterra Black Diamond Triathlon.

**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



# SPECIAL EVENT APPLICATION

PERMIT#

SEP12-0001

## EVENT INFORMATION

EVENT NAME: XTERRA Black Diamond  
 EVENT LOCATION: LAKE SAWYER PARK SPACE and 1621069009  
 (If structures will be erected and/or street ROW used, please attach (3) drawings noting locations and dimensions.)  
 EVENT TYPE: ☐ Exhibition ☐ Protest ☒ Run/Walk ☐ Dance ☐ Festival ☐ Concert ☐ Party  
 (Check all that apply) ☐ Wedding ☐ Drama ☐ Parade ☐ Other ☒ TRIATHLON  
 DATE OF EVENT: 8/5/2012 set up 8/4/2012 HOURS: 8/4: 9am - 8/5: 2 PM  
 PURPOSE OF EVENT: OFF ROAD TRIATHLON & KIDS RACE

EST. ATTENDANCE: Participants 250 Spectators 200 Volunteers/Personnel 120  
 CITY BUS. LICENSE #: \_\_\_\_\_ (participating commercial vendors will also require a City license)

PARKING PLANS: LAKE SAWYER PARK & LAKE SAWYER ELEMENTARY SCHOOL  
 (Please provide a drawing unless you are using an existing parking lot with sufficient stalls.)

FACILITIES TO BE USED: ☐ City Park ☒ Lake Sawyer ☐ Sidewalk ☒ Street ☒ Private Property  
 (If using private property, you must provide proof that you have permission unless you are the owner.)

CITY ASSISTANCE REQUIRED: ☒ Police ☒ Fire ☐ Public Works ☐ Other \_\_\_\_\_

Describe:

(Police and Fire services require a written agreement that must be submitted with the event application.)

INSURANCE COMPANY: ESIX - ENTERTAINMENT & SPORTS INSURANCE EXPERTS  
 (Proof of Ins. required naming City of Black Diamond as co-insured if event is taking place on City property.)

FOOD TO BE SERVED: ☒ YES ☐ NO If yes, provide copy of Health Dept approval/license.

SOUND SYSTEM: ☒ YES ☐ NO

(If liquor and music are provided a Cabaret license may be required.)

SANITATION PLANS (Sani-cans, hand washing stations, etc.): SANITIZERS & HANDWASHING STATION

PRODUCTS OR SERVICES TO BE SOLD: ☐ YES ☒ NO If yes, what? \_\_\_\_\_

ADMISSION FEE: ☒ YES ☐ NO If yes, how much? \$55.00 to \$120.00 depending on age/admission

HAS THE EVENT BEEN PREVIOUSLY PRODUCED? ☒ YES ☐ NO PREVIOUS DATE: 8/3/08, 8/2/09, 8/1/10, 8/1/11

ANY CHANGES FROM PREVIOUS EVENT? ☐ YES ☒ NO If yes, list changes: \_\_\_\_\_

## APPLICANT INFORMATION

APPLICANT: FRANK WILLIAMS ORGANIZATION: RAISE THE BAR LLC  
 MAILING ADDRESS: 15423 SE 272<sup>nd</sup> ST. SUITE 106-1 KENT, WA 98042

CONTACT PHONE: 253-217-1614 FAX \_\_\_\_\_  
EMAIL ADDRESS: ~~BRAND~~ BRAND@WE RASE THE BAR.COM  
EMERGENCY CONTACT PATTY SWEDBERG PHONE 206-779-7727  
[Signature] 12/1/2011  
SIGNATURE OF APPLICANT DATE

Additional information or requirements may be requested. Please allow 3-4 weeks for processing.

## **XTERRA Black Diamond 2012**

### **Event Description**

Raise the Bar respectfully requests the permission of the City of Black Diamond to produce the 5<sup>th</sup> annual XTERRA Black Diamond scheduled for August 5, 2012. The 2012 event will feature 2 adult races of different distances run simultaneously on the same course and a kids' event that takes place within the park boundaries.

### **Location:**

The race takes place on the City of Black Diamond's Lake Sawyer Park, King County Owned property, and on the privately owned trails east of Lake Sawyer

### **Date/Time:**

Saturday, August 4, 2012: 9AM – dusk (Set-up)

Sunday, August 5, 2012: 5AM – 3PM. (Race day)

### **Schedule of Events:**

August 4: Transition area set-up on City of Black Diamond park property. Course setup and athlete course previews taking place on the course.

August 5:	6:00	Registration
	9:00	Long course race begins
	9:20	Short course race begins
	9:30	Kids Race Begins
	1:30	All athletes off the course. Awards, meal take place, clean-up begins
	3:00	Course Clean-up and exit

### **Estimated Attendance:**

200 individual adult athletes, 150-200 spectators, volunteers and staff, 60 kids and parents for kids' race

### **Parking:**

Event organizers will park no more than 100 staff, volunteer, and/or athlete vehicles within the park boundaries on race weekend. No vehicles will park within 100 feet of the shore and spill response kits will be available in the event a vehicle is leaking oil or other fluid. All other vehicles will park at Sawyer Woods Elementary School as contracted through the Kent School District. A police officer will provide traffic control on Sunday morning to assure the safety of pedestrians crossing 228<sup>th</sup> Ave SE to access SE 312<sup>th</sup> St.

### **Sanitation:**

3 standard portable toilets, 1 fully-accessible portable toilet, and one hand-washing station will be on site to serve athletes, spectators, and staff as per the recommendation of the vendor.

### **Athlete Safety:**

Mountain View Fire and Rescue will provide medical care to athletes on race day. Certified lifeguards will be hired to provide water support during the swim portion. The Maple Valley Amateur Radio Club will provide communication assistance on race day to alert race staff and the medical team of any requirements to assist athletes on the course.

**Insurance**

XTERRA Black Diamond is a race sanctioned by USA Triathlon, which provides an insurance policy for the race through the ESIX insurance company. King County, the private property owners, the Kent School District, and the City of Black Diamond will be listed as 'additional insured's and certificates of insurance will be provided.

**Camping**

The event would like to provide 15 camping sites in the park for out-of-town athletes. Other camping options were explored last year and weren't adequate. Overnight camping fees will be collected and payments made payable to the City of Black Diamond for the amount dictated by the city. Race organizers will park and occupy one tent trailer overnight to provide security.

**Neighbor notice**

Notice will be made to neighbors on SE 312<sup>th</sup> St. no less than 2 weeks prior to the event with a schedule, and description of the event.

**Noise**

Amplification of race announcements and music will begin no earlier than 8:00AM and will be kept at an appropriate volume to serve the athletes and staff. Race organizers make every effort not to disturb the neighbors close to the park.

**Food**

Food will be provided at the event by a vendor who has the appropriate permits with the Department of Health.

**Race produced by:**

Raise the Bar LLC

15423 SE 272<sup>nd</sup> St. #106.1

Kent, WA 98042

**Event Owners:**

Brad Williams 253-217-1614 brad@weraisethebar.com

Patty Swedberg: 206-779-7727 patty@weraisethebar.com

**Course Director:**

Toby Mollett 206-713-0800 toby@weraisethebar.com



Presented by  
Yarrow Bay Communities



## The Course

First..the venue! The XTERRA Black Diamond transition area is currently sitting on the future site of the Lake Sawyer Regional Park owned by the City of Black Diamond. You can visit that park at any time. The Lake Sawyer Park Foundation's mission is to identify and secure funds and resources to develop approximately 150 acres at the south end of Lake Sawyer into a regional park that includes sports fields, beach front/swimming, picnic areas, and trails for walking, biking, and riding horses. They are a grass roots, community-based organization. If you are interested in seeing this park turning into a great community resource, you can make a tax-deductible donation during as part of your online race registration.

### ***"Blue Zone Consulting" Swim Course:***

**XTERRA: 1000 meters.    ½ terra: 500 meters**

XTERRA athletes will swim around the mysterious *XTERRA Island* 500 meters from shore.

½ terra athletes will swim 250 meters out and turn around....  
Water Temperature is typically 75 degrees

### ***Bike Course: Lake Sawyer Trails***

**XTERRA: 15 miles    ½ terra: 7.5 miles**

Leaving transition you will enjoy almost a mile of dirt road riding with plenty of room to pass. Use this time wisely because there will be no more breaks after you hit the single track. The next mile is some nice fast single track. Once you start feeling comfortable you will come upon the stream crossing. Here you will have to get off your bike and maneuver around, over, or under the logs that try and keep you out. Plan on getting your feet wet!!! Once on the other side, enjoy some more casual riding along the creek where you will cross it again over the wooden bridge. From here there will be some short technical sections and some short leg burning climbs. But that just warms you up for the nice climb up Ruth's hill. After this gruelling climb you will traverse the hillside and make a big loop that will eventually take you on some fast single track back to the start of loop two. The start of lap two is different than lap one, here you will have a rude introduction to a lot of switch backs, roots, and rocks. This is the technical part of the course.

**XTERRA athletes will do two loops,    ½ terra athletes will do one loop**

**The bike and run courses are on privately owned property and are unavailable for XTERRA pre-rides until the Saturday preceding Race Day.**

The owners of those properties thank you for your cooperation, which, by the way, will encourage them to continue to offer their property for this race in the future.

Questions? You can bug Toby with those

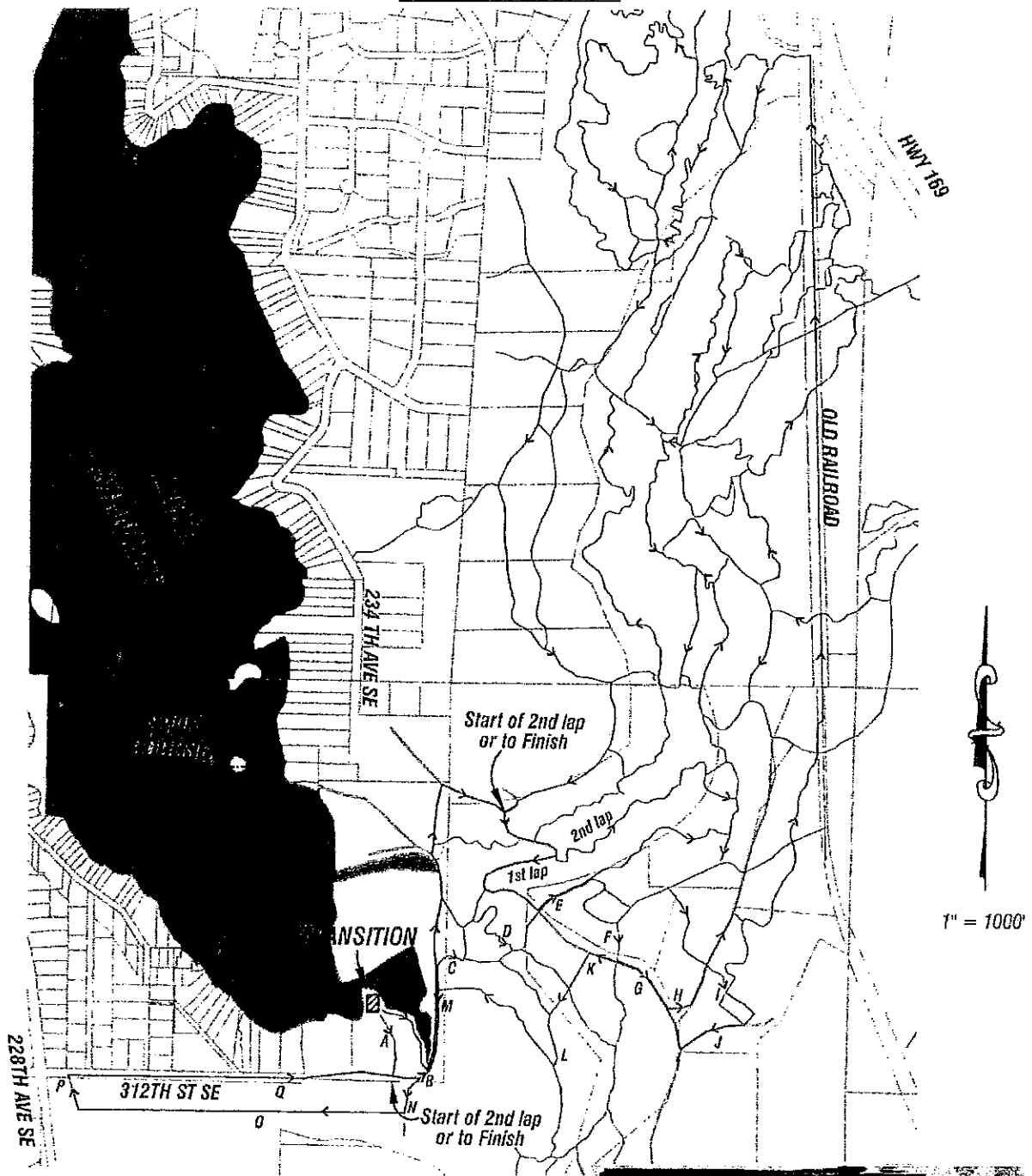
### ***'Maple Valley Physical Therapy' Run Course: Frog Lake Trail & others***

**XTERRA athletes: 6.2 miles.    ½ terra athletes: 3.1 miles**

After we make sure that your legs feel like concrete and your arms and hands are frozen to the handle bar position you will enjoy a nice leisurely run through Frog Lake Forest. Here you encounter single track trails with moderate elevation changes. We must warn you though, when you are running along Frog Lake, watch your footing, it's a windy technical section. You might even have to jump over a fallen tree or two. After this section, you'll come back towards transition and just before you get there you will have to take a sharp left up a short steep climb for some more single track running and a loop back to transition. ½ terra athletes will head to the finish line. XTERRA athletes will head out to repeat

# COURSE MAP

DRAWN BY: Toby Mollett



## NOTES

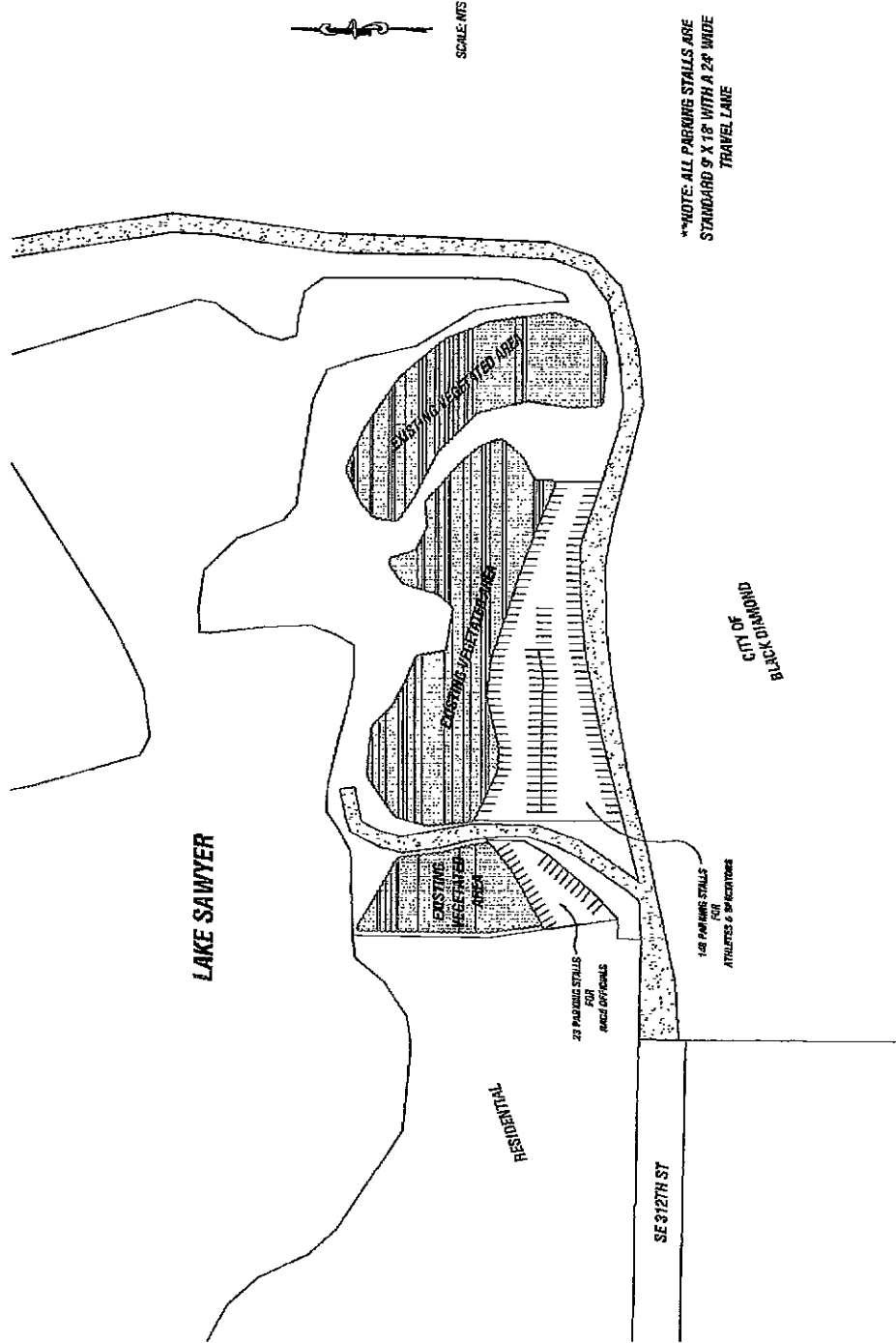
1. BIKE AND RUN COURSE ROUTES WILL REMAIN ON EXISTING TRAILS AND UNIMPROVED ROADS
2. BIKE AND RUN COURSE ARE TWO LOOPS

## LEGEND

- SWIM COURSE - 1,000 METERS
- BIKE COURSE - 15 MILES
- RUN COURSE - 6.2 MILES
- SINGLE TRACK TRAILS
- UNIMPROVED ROAD



# XTERRA BLACK DIAMOND PARKING EXHIBIT





Kent School District No. 415

District Facility Use # 31152

## APPLICATION AND PERMIT FOR USE OF SCHOOL FACILITIES

## PLEASE SUBMIT QUARTERLY

FALL (Sep-Nov) by Aug 1  
WINTER (Dec-Feb) by Nov 1SPRING (Mar-May) by Feb 1  
SUMMER (Jun-Aug) by May 1DATE OF APPLICATION 2/23/12Application with insurance must be submitted at least 10 days prior to use for the application to be considered. **Applications submitted without insurance will not be accepted.****NOTICE: NO RIGHT TO USE FACILITY UNTIL SIGNED APPROVAL OF THIS APPLICATION IS RECEIVED BY APPLICANT!**

User/Group Name Raise the Bar LLC Responsible Person Ruthy Morrison  
 Address 17121 SE 316 PL Address 54125 201 PL SE  
 City Kent State WA Zip 98032 City Kent State WA Zip 98032  
 Telephone \_\_\_\_\_ Telephone 858 569 1927  
 School Requested Seaside Middle Email Ruthy.Morrison@kent.wa.us

☐ Auditorium ☐ Cafeteria ☐ Kitchen Area ☐ Stoves/Oven ☐ Classroom ☐ Multipurpose Room  
☐ Soccer Field ☐ Football Field ☐ Kentlake turf football field ☐ Baseball Field ☐ Softball field ☐ Main Gym ☐ Auxiliary Gym  
 Other (Specify) Parking lot only ☐ Equipment Needed will need 4 wheelers

Number of Persons Expected: Adult 2 Youth 2 Total 4  
 Elementary/High Only ☐ Requested after 5:00 PM (fee to be applied) ☐ Yes ☒ No

Date(s) Requested Aug 5, 2012 Day(s) of the Week Sunday  
 Room Parking lot Time (Please include Setup/Cleanup time) From 6am To 11pm Total Hours Day 8  
 Room \_\_\_\_\_ Time (Please include Setup/Cleanup time) From \_\_\_\_\_ To \_\_\_\_\_ Total Hours Day \_\_\_\_\_  
 Room \_\_\_\_\_ Time (Please include Setup/Cleanup time) From \_\_\_\_\_ To \_\_\_\_\_ Total Hours Day \_\_\_\_\_

What is the nature/purpose of the facility use? overland parking for trail 11 on Lake Sawyer  
 Admission (if any) Child \$ \_\_\_\_\_ Adult \$ \_\_\_\_\_ Other \$ \_\_\_\_\_ How much anticipated net? \_\_\_\_\_

**Agreement & Insurance**

The above referenced Group/Organization hereby makes application to Kent School District No. 415 for the use of school facilities as described above. The undersigned representative makes this application on behalf of the Group/Organization and certifies that the information given in this application is true and correct. The applicant agrees to strictly observe and enforce all rules and regulations of the Kent School District, the principal of the school in which the facilities are requested, as well as those enumerated in the Community Use Applicant's Responsibility form attached hereto. The applicant further agrees that the applicant and the responsible officers or representatives of the applicant Group/Organization must, as a condition to this request, sign the attached indemnity agreement prior to final approval.

The Kent School District does not maintain insurance that will respond to claims against the applicant arising out of the use of the facilities by the Applicant, its members, or those attending the event. The applying Group/Organization is required to be covered by comprehensive general liability insurance. The applicant is responsible for obtaining said insurance and, at the time this application is presented, must also present satisfactory proof that such a policy is or will be issued to cover the proposed use if this request is approved. The application will not be approved until satisfactory evidence of insurance naming Kent School District as additional insured is presented in a face amount of not less than \$1,000,000 for state-certified, non-profit organizations and \$5,000,000 minimum for all other groups that are operated for a profit.

Date 2-23-12 By Ruthy Morrison

(BELOW - TO BE COMPLETED BY SCHOOL SECRETARY, ASB SECRETARY OR DISTRICT OFFICE SECRETARY)

**Budget # must be assigned for all chargeable in-District applications.**☒ General Fund; ☐ ASB Budget Number \_\_\_\_\_**Rental Fees & Miscellaneous Charges (To be determined by District Office)**

☐ Approved - No Charge \_\_\_\_\_  
☒ Approved With Charges 100- \*Principal's designee - acceptance of responsibility, security and cleanup in lieu of a custodian  
 \*ESTIMATED TOTAL \$ \_\_\_\_\_ In District Event \_\_\_\_\_ Out of District Event X  
 \*Please see attached Estimated Expense Worksheet

☐ Disapproved Reason: \_\_\_\_\_  
 Principal's Signature [Signature] Date 3-8-12 District - Athletic/Activities Director [Signature] Date \_\_\_\_\_

Insurance 12/1/12



## Review Process Status Report

Permit: SEP12-0001

### 1010 - Planning Review

Complete? Y

06/18/2012 By: SWELSH Minutes: 15 Original Due Date: 06/29/2012 Action: CMP Y

*SINCE THIS IS A TWO DAY EVENT, PER BDMC SECTION 2.59.040.B, THE CITY COUNCIL IS RESPONSIBLE FOR APPROVING THIS SPECIAL EVENT PERMIT. A PUBLIC HEARING IS NOT REQUIRED.*

*\*THE APPLICANT MUST PROVIDE COPIES OF SPECIAL USE PERMITS.*

Total Time: 15

### 1030 - Building Review

Assigned: RMEYERS - 6/29/2012 Complete? N

Total Time: 0

### 1050 - Public Works Review

Assigned: DDALSANTO - 6/29/2012 Complete? N

Total Time: 0

### 1060 - Fire Review

Assigned: DDALSANTO - 6/29/2012 Complete? Y

06/19/2012 By: RYOUNG Minutes: 30 Original Due Date: 06/29/2012 Action: CMP Y

- 1. maintain FD access to school, homes off SE 312th and the park.*
- 2. Provide for FD EMS stand-by personnel*

Total Time: 30

### 1070 - Police Review

Assigned: JKIBLINGER - 6/29/2012 Complete? N

Total Time: 0

**1080 - Parks Review**

Assigned: JKIBLINGER - 6/29/2012 Complete? Y

06/18/2012 By: ANIX

Minutes: 120

Original Due Date: 06/29/2012 Action: CMP Y

1. Please identify the 15 locations for camping on the map supplied with the application and the area for the pop-up trailer. It should be expected that each campsite will be utilized to locate one tent, approximately a 10'x10' area for each (\$10 fee for each site). No fire pits are allowed. If barbecues are going to be utilized onsite, please gain written permission from the Black Diamond Fire Department, conditioned for safe use in the park. Briquet barbecues are prohibited as no acceptable coal receptacles exist in the Park. Only dry camping is allowed within the regional facility as no utilities exist. Dumping of wastewater in the regional facility from the tent trailer is strictly prohibited.

2. No more than 100 vehicles will be allowed to park within the regional facility at any given time. The parking plan shows 140 parking stalls, but the 100 car limit will be strictly enforced. Additional parking shall be located at Sawyer Woods Elementary or another approved facility. Please have a back-up plan in place as additional vehicles will not be allowed within the facility beyond the 100 vehicle limit and at an appropriate distance away from the water's edge.

3. Please limit the disruption of private property owners along 312th Street from car, foot traffic and excess noise. This is a residential neighborhood and no parking is permitted on either side of 312th from it's intersection with Lake Sawyer Road to the gate at the entrance of the Regional facility.

4. Please ensure that no vegetation removal is allowed within the Regional facility and trash is picked up and taken to an appropriate facility at the conclusion of activities and departure from the facility.

5. Please ensure that access is granted from all private property owners being impacted by the event. The submitted map is unclear, but based on the Exterra website, access across the Rust property island is shown. No approvals have been given to utilize this property and due to its ecological sensitivity, access is not recommended by permitting staff.

6. If vendors will be selling food at the regional facility, appropriate health permits are required as well as City of Black Diamond vendor's permit (\$50.00 each).

7. Smoking is prohibited within the regional facility.

8. The hanging of temporary signs and/or banners within the regional facility must be approved by the City Council through the special events permit process and directional marking will be allowed on a temporary basis.

9. Amplified sound will only be allowed as long as the volume is kept to minimum needed levels.

10. Please arrange for pick-up of the gate key along 312th Street prior to the end of business on Friday, August 3, 2012. The key shall be returned by the end of business on August 6, 2012 or other arrangements made with permitting staff. Do not duplicate the key.

Total Time: 120

**1190 - Permit Tech Review**

Assigned: ADONLAN - 6/29/2012 Complete? N

Total Time: 0

**1200 - Administration Review**

Assigned: BMARTINEZ - 6/29/2012 Complete? N

Total Time: 0

**1210 - Economic Development Review**

Assigned: BMARTINEZ - 6/29/2012 Complete? Y

06/20/2012 By: AWILLIAMSON

Minutes: 15

Original Due Date: 06/29/2012 Action: CMP Y

Total Time: 15

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Total Reviews: 9

Total Time: 180

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>Resolution No. 12-812, executing a grant agreement with King County Dept. of Community &amp; Human Services Housing and Community Development for the replacement of the 5<sup>th</sup> Avenue Water Main.</b>	<b>Agenda Date: July 9, 2012</b>	
	<b>AB12-054</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Pete Butkus	
	City Attorney – Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	X
Cost Impact: \$175,000 (total project budget)	Police – Jamey Kiblinger	
Fund Source: \$160,000 CDGB grant and \$15,000 in kind match from REET II	Court – Stephanie Metcalf	
Timeline: Start right away; Complete in 2013	Comm. Dev. – Steve Pilcher	
<b>Attachments: Resolution No. 12-812; Grant Agreement; Aerial Photo; Anticipated Schedule; CIP page</b>		
<b>SUMMARY STATEMENT:</b> <p>The City applied for a \$160,000 Community Development Block Grant in 2011 as was selected for funding. King County has now sent the City a grant agreement for distribution of \$41,000 of engineering funds. The construction funds will be made available by an amendment to the enclosed grant agreement.</p> <p>The replacement of the existing asbestos concrete water main in 5<sup>th</sup> Street will bring the fire flows up to City standards along the improvements and improve the reliability of water service.</p> <p>The 2012 project budget was for \$175,000. The City committed to a 20% match of which most of the contribution was to come from in kind match. The City of Black Diamond Public Works Department will provide the project administration, the grant administration, inspections and project management.</p> <p>The water line construction will have to be completed while Lawson Creek is dry. At this point the City is expecting to design the project this year, bid the project early next year and be ready for construction during the dry season in 2013.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-812, authorizing the Mayor to execute a grant agreement with King County Department of Community and Human Services Housing and Community Development for the distribution of \$41,000 of grant funds for engineering and to execute amendments to the agreement to accept the distribution of construction funding.</b>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
July 9, 2012		

**RESOLUTION NO. 12-812**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
EXECUTING A GRANT AGREEMENT WITH KING COUNTY  
DEPARTMENT OF COMMUNITY AND HUMAN SERVICES  
HOUSING AND COMMUNITY DEVELOPMENT FOR THE  
REPLACEMENT OF THE FIFTH AVENUE WATER MAIN**

**WHEREAS**, the 5<sup>th</sup> Street Water Main Replacement project is scheduled for construction in 2012 and 2013 on the city's Capital Improvement Plan; and

**WHEREAS**, the City received a \$160,000 King County Community Development Block Grant for the 5<sup>th</sup> Street Water Main Replacement project; and

**WHEREAS**, replacement of the 5<sup>th</sup> Street Ave water main will improve the reliability of service to the South East section of the City and improve the fire flow;

**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 the attached agreement labeled Exhibit A with King County Department of Community & Human Services Housing and Community Development for the distribution of \$41,000 of grant funds for engineering and to execute amendments to the attached agreement to accept the distribution of construction funding.

**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



Department of Community and Human Services  
Community Services Division  
Housing and Community Development Section  
206-263-9097 TTY Relay: 711

Contractor	City of Black Diamond		
Project Title	Black Diamond Fifth Avenue Water Main Replacement (C12226)		
Contract Amount \$	41,000		
Contract Start Date:	3/23/2012	Contract End Date	5/31/2013
Termination Date (where applicable):	5/31/2013		
DUNS No. (if applicable)	195690011	CCR No. (if applicable)	5ED09

#### KING COUNTY HOUSING AND COMMUNITY DEVELOPMENT CONTRACT— 2012

THIS CONTRACT No. 5427808 is entered into by KING COUNTY, a political subdivision of the State of Washington (the "County"), and City of Black Diamond, (the "Contractor"), whose address is P.O. Box 599, Black Diamond, WA 98010. This Contractor is a Municipal corporation.

WHEREAS, the County is an Urban County recipient of Community Development Block Grant Program (CDBG) funds under the Housing and Community Development Act of 1974, Public Law 93-383 as amended (the "HCD Act"); HOME Investment Partnerships Program (HOME) funds under the National Affordable Housing Act of 1990 Public Law 101-625 as amended (the "NAHA"). The County allocates Housing Opportunity Funds (HOF), Regional Affordable Housing Program (RAHP) funds, and Homeless Housing and Services Funds (2163), Homeless Housing Document Recording Fee Surcharge Revenue (2331), Veterans and Human Service Levy funds and Mental Illness and Drug Dependency (MIDD) funds to low-income housing development capital, American Recovery and Reinvestment Act of 2009 (Public Law 111-5) (the Recovery Act)—also known as CDBR-R funds for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed and/or service projects and Current Expense ("CX") funds to housing and community development projects in accordance with adopted County ordinances. The County uses CDBG, HOME, HOF, RAHP, Veterans and Human Services Levy funds and/or CX funds for the purpose of carrying out eligible community development and housing activities under the HCD Act, the NAHA, regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) at 24 Code of Federal Regulations (CFR) Part 570, 24 CFR Part 92, 24 CFR Part 576, and adopted County Ordinances. (All CFR references can be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>. All King County code references can be found at [http://www.kingcounty.gov/council/legislation/kc\\_code.aspx](http://www.kingcounty.gov/council/legislation/kc_code.aspx);

WHEREAS, an Urban County CDBG Consortium has been established by CDBG interlocal cooperation agreements ("CDBG ICAs") or joint agreements between the County and certain municipal corporations (Consortium Cities) within the County covering program years 2012-2014. The CDBG ICAs specify allocation of CDBG funds by the County to those participating jurisdictions for use in accordance with the County Consolidated Housing and Community Development Plan ("HCD Plan"). The HCD Plan has been adopted by the King County Council, accepted by participating jurisdictions and approved by HUD;

This form is available in alternate formats upon request for persons with disabilities.

WHEREAS, a HOME Consortium has been established by HOME ICAs between the County and certain HOME Consortium Cities covering 2012-2014, the terms of which specify allocation of HOME funds by the County for use in accordance with the HCD Plan which has been adopted by the King County Council, accepted by participating jurisdictions, and approved by HUD;

WHEREAS, the County desires to award certain funds to the Contractor for use as described in this Contract and as authorized by County ordinance, for the purpose of implementing eligible activities as applicable under the HCD Act, the NAHA, HUD regulations, State laws, and/or adopted County ordinances;

WHEREAS, it is appropriate and mutually desirable that the Contractor be designated by the County to undertake such eligible activities, so long as the requirements of the HCD Act, NAHA, HUD Regulations, State law, and County ordinances are adhered to as provided for herein;

WHEREAS, the purpose of this Contract is to provide for cooperation between the County and the Contractor, as the parties in this Contract, in implementing such eligible activities under the laws and regulations that pertain to the funds awarded in this Contract;

WHEREAS, the parties are authorized and empowered to enter into this Contract by one or more of the following: County ordinance, the HCD Act, the NAHA, Revised Code of Washington (RCW) Chapter 39.34, RCW Chapter 35.21.730 et seq., the Constitution and the enabling laws of the State of Washington;

NOW, THEREFORE, for and in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties mutually covenant and agree to abide by the provisions of this Contract.

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IX. Internal Control, Accounting Systems and Audits	XXXIII. Accessibility for Capital Projects
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XIII. Corrective Action	XXXVII. Supplanting
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XV. Termination	XXXIX. Constitutional Prohibition
XVI. Entire Contract/Waiver of Default	XL. Promissory Note, Deed of Trust and Covenant
XVII. Hold Harmless and Indemnification	XLI. Anti-Displacement and Relocation Assistance
XVIII. Insurance Requirements - General	XLII. Property Management for Capital Projects
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## EXHIBITS ATTACHED HERETO

	Exhibit Name	EBS Project #	Amount	Fund Source
I	Certificates of Insurance/Endorsements			
II	BLACK DIAMOND FIFTH AVENUE WATER MAIN REPLACEMENT (C12226)	1111374	\$41,000	CDBG

### I. SCOPE OF CONTRACT AND INCORPORATION OF EXHIBITS

#### A. Scope

The Contract between the parties shall consist of the signature page, each Program/Project Exhibit incorporated into the Contract, all matters and laws incorporated by reference herein, and any written amendments made in accordance with the provisions contained herein. The exhibits attached to this Contract as Exhibits I. through II. are hereby incorporated by this reference. This Contract supersedes any and all former agreements regarding projects described in the attached Project/Program Exhibit(s). If there is a conflict between any of the language contained in this Contract and any of the language contained in any Project/Program Exhibit in this Contract, the language in this Contract shall control, unless the parties affirmatively agree to the contrary in a writing that has been reviewed and approved by the King County Prosecuting Attorney's Office. This Contract shall govern both:

1. Service Projects (human service, planning, program administration and micro-enterprise or supportive services for the homeless); and
2. Capital Projects (acquisition, improvement, and rehabilitation of real property and construction or reconstruction of public infrastructure).

The two types of activities may be included in one Contract as separate Project/Program Exhibit(s) of Services.

#### B. Mandatory Certifications

The Contractor certifies that it shall comply with the provisions of Sections XIX, XXII and XXX of this Contract. If the Contractor is a municipal corporation (other than King County), or agency of the State of Washington, King County Code (KCC) chapters 12.16, 12.17 and 12.18 do not apply to the Contractor, but may apply to any subcontractor of the Contractor.

#### C. Contact Person

King County and the Contractor shall each designate a contact person for each Project/Program Exhibit incorporated in this Contract. All correspondence, reports and invoices shall be directed to the designated contact person. This provision does not, however, supplant or override Section XXVII Notices.

#### D. Federal Funds

The term "federal funds" as used herein means CDBG funds and/or HOME funds. The specific types of funds provided under this Contract are specified in the attached Project/Program Exhibit(s).

#### E. Environmental Review

This section applies to all projects using federal funds that are not exempt under 24 CFR Part 58. Notwithstanding any provision of this contract, the parties hereto agree and acknowledge that this contract does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt of a release of funds from HUD under 24 CFR Part 58. The parties further agree that the provision of any funds to the project is conditioned upon King County's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review. The Contractor shall not spend any funds on physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance. Violation of this provision shall result in the denial of any funds under this Contract.

Capital Projects using federal funds shall also comply with subsections F, G, H and I.

#### F. Environmental Policy Act

The County retains environmental review responsibility for purposes of fulfilling requirements of the National Environmental Policy Act as implemented by HUD Environmental Review Procedures (24 CFR Part 58) and the Federal laws and authorities identified therein. The Contractor shall be solely responsible for the cost of compliance with all such Federal laws and authorities including the cost of preparing plans, studies, reports and the publication of notices that may be required. The Contractor and its contractors shall not take any actions inconsistent with 24 CFR Part 58.

#### G. National Flood Insurance

The use of CDBG and HOME funds for acquisition or construction purposes in identified special flood hazard areas shall be subject to Contractor mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub L. 93-237).

#### H. Lead Based Paint

The Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 United States Code (USC) 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, J, K, and R. Generally, these laws prohibit the use of lead-based paint (whenever funds under this Contract are used directly or indirectly for construction, rehabilitation, or modernization of residential structures); require elimination of immediate lead-based paint hazards in residential structures; and require notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1978.

#### I. Environmental Justice

The Contractor shall comply with Presidential Executive Order 12898 requiring identification and mitigation, as appropriate, of disproportionately high and adverse human health or environmental impacts of programs, policies and activities on minority and/or low-income populations.

J. Subrecipient Monitoring

1. First-tier subrecipients shall register in the Central Contractor Registration (CCR), including obtaining a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain the currency of that information. A pass through entity shall be responsible for determining that subrecipients have current CCR registrations prior to making subawards and performing periodic checks to ensure that the subrecipients are updating information as necessary.
2. Recipients shall require each subrecipient to;
  - a. Document at the time of the subaward and disbursement of funds, the Federal award number, Catalog of Federal Domestic Assistance (CFDA) number, and the amount of American Recovery and Reinvestment Act (ARRA) funds; and
  - b. Provide similar identification in their Schedule of Expenditures of Federal Awards (SEFA) and Form SF-SAC. Additional information, including presentation requirements for the SEFA and SF-SAC, is provided in Appendix VII of the 2009 Supplement (2CFR Section 176.210).

II. **DURATION OF CONTRACT**

The terms of this Contract shall be in effect from the Start Date (as defined in the Project/Program Exhibit(s)) or the date of execution of this Contract, whichever is earlier, and shall terminate on the Termination Date specified in each Project/Program Exhibit, unless extended to a later date or terminated earlier, pursuant to the terms and conditions of the Contract.

III. **TERM OF COMPLIANCE FOR CAPITAL PROJECTS**

The Contractor shall own and operate the project during the Compliance Period as defined in the Program/Project Exhibit.

IV. **FUTURE SUPPORT**

The County makes no commitment to support the services contracted for herein and assumes no obligation for future support of the activity contracted herein except as expressly set forth in this Contract.

V. **COMPENSATION AND METHOD OF PAYMENT**

The County shall reimburse the Contractor only for the approved activities specified in each Project/Program Exhibit and the reimbursement amount shall not exceed the amount specified in each Project/Program Exhibit. Reimbursements will be payable in the following manner.

A. Start Date and End Date

Start Dates and End Dates for individual projects shall be specified in each Project/Program Exhibit. Costs incurred before the Start Date will not be reimbursed. Costs incurred after the End Date will not be reimbursed.

B. Submission of Invoices; Supporting Documentation and Reports

The Contractor shall submit an invoice, supporting documentation for costs claimed in the invoice and all reports as specified in each Project/Program Exhibit or the County may not process the invoice. Supporting documentation for costs claimed in the invoice includes, but is not limited to, purchase orders and bills. The County shall initiate authorization for payment to the Contractor not more than 30 days following the County's approval of a complete and correct invoice, supporting documentation and reports.

C. Final Invoice for Service Projects

The Contractor shall submit its final invoice for each Project/Program Exhibit providing funding for Service Projects within seven business days after the End Date. The Contractor shall submit all outstanding reports for each Project/Program Exhibit providing funding for Service Projects within 30 business days after the End Date.

If the Contractor's final invoices, supporting documentation, and reports are not submitted by the last date specified in this subsection, the County shall be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice; provided, however, the County may elect to pay any invoice that is not submitted in a timely manner.

D. Final Invoice for Capital Projects

Unless provided otherwise in the Project/Program Exhibit(s), the Contractor shall submit its final invoice, supporting documentation, and all outstanding reports for each Project/Program Exhibit providing funding for Capital Projects before the End Date specified in the Project/Program Exhibit(s).

If the Contractor's final invoices, supporting documentation, and reports are not submitted by the date specified in this subsection, the County shall be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice; provided, however, the County may elect to pay any invoice that is not submitted in a timely manner.

E. Unspent County Funds

1. After the End Date specified in each Project/Program Exhibit, for individual projects covered by this Contract, the County shall recapture any unexpended funds encumbered under this Contract.
2. During the term of the Contract, the County may, upon agreement with the Contractor, recapture any unexpended funds for reallocation to other Project/Program activities.

Projects using federal funds shall also comply with the following subsections F, G, H and I.

F. Municipal Corporations or State Public Agencies

If the Contractor is a municipal corporation or a Contractor of the State of Washington, costs for which the Contractor requests reimbursement shall comply with the policies, guidelines, and requirements of the Office of Management and Budget (OMB) Circular No. A-87, "Cost Principles For State, Local and Indian Tribal Governments" and the sections of 24 CFR Part 85 "Administrative Requirements for Grants and Cooperative

Agreements to State, Local and Federally Recognized Indian Tribal Governments" identified at 24 CFR § 570.502(a) Applicability of Uniform Administrative Requirements, unless otherwise provided in the Project/Program Exhibit(s).

G. Not-for-profit Corporations

If the Contractor is a not-for-profit corporation, costs for which the Contractor requests reimbursement shall comply with, unless otherwise provided in the Project/Program Exhibit(s), the policies, guidelines and requirements of OMB Circular No. A-122, "Cost Principles for Non-Profit Organizations," and the sections of 24 CFR Part 84, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, identified at 24 CFR § 570.502 (b), Applicability of Uniform Administrative Requirements.

H. Excess Federal Funds

CDBG and/or HOME funds on hand shall not exceed \$5,000 if retained beyond three days unless written approval is received from the County. Any reimbursement in excess of the amount required shall be promptly returned to the County.

I. Program Income

The Contractor shall report all CDBG and HOME Program Income, as defined in 24 CFR §§ 92.2, 92.503 and 570.504(c) and in the ICAs, generated under this Contract for the purposes specified herein or generated through the project(s) funded under this Contract. Program Income is to be reported to the County. Program income shall be returned to the County unless the County specifies that it may be retained by the Contractor. If the County authorizes the Contractor to retain the Program Income to continue or benefit a project(s), the Contractor shall comply with all provisions of this Contract in expending the funds. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to Section II or Section XV.

VI. BUDGET

The Contractor shall apply the funds received from the County under this Contract in accordance with each Project/Program Exhibit including a line item budget, if applicable, set forth in each Project/Program Exhibit. The Contractor shall request in writing prior approval from the County to revise the line item budget when the cumulative amount of transfers from a line item in any Project/Program Exhibit is expected to exceed ten percent of that line item. Supporting documents are necessary to fully explain the nature and purpose of the revision, and must accompany each request. All budget revision requests in excess of ten percent of a line item amount shall be reviewed and approved or denied by the County in writing.

VII. EQUIPMENT PURCHASE, MAINTENANCE, AND OWNERSHIP

A. Equipment Purchase

The Contractor agrees that equipment purchased with Contract funds at a cost of \$5,000 per item or more and identified in an exhibit as reimbursable, is upon its purchase or receipt the property of the Contractor, County, and/or federal, and/or state government, as specified in the exhibit.

B. Maintenance of Equipment

The Contractor shall be responsible for all such equipment, including the proper care and maintenance.

C. Equipment Returned

The Contractor shall ensure that all such equipment shall be returned to the appropriate government Contractor, whether federal, state or County, upon written request of the County.

D. Right of Access

The Contractor shall admit the County's Property Management Officer to the Contractor's premises for the purpose of marking such property with appropriate government property tags.

E. Maintenance of Records

The Contractor shall establish and maintain inventory records and transaction documents (purchase requisitions, packing slips, invoices, receipts) of equipment purchased with Contract identified funds.

F. Disposition of Equipment

Projects using federal funds shall also comply with the following requirement. If the Contractor ceases to use equipment purchased in whole or in part with CDBG funds for the purpose described in this Contract, or if the Contractor wishes to dispose of such equipment, the disposition shall be determined under the provisions of 24 CFR § 570.502(b)(3)(vi), if the Contractor is a nonprofit corporation and 24 CFR § 570.502(a) and 24 CFR § 85.32(e) if the Contractor is a municipal corporation or an agency of the state of Washington. The Contractor agrees that it will contact the County for instructions prior to disposing of, surplus of, encumbering or transferring ownership of any equipment purchased in whole or in part with federal funds.

**VIII. CONTRACT AMENDMENTS**

Either party may request changes to this Contract. Proposed changes, which are mutually agreed upon, shall be incorporated by written amendments to this Contract. Budget revisions approved by the County pursuant to Section VI are not required to be incorporated by written amendment.

**IX. INTERNAL CONTROL, ACCOUNTING SYSTEM AND AUDITS**

**Internal Control and Accounting**

The Contractor shall establish and maintain a system of accounting and internal controls that comply with applicable, generally accepted accounting principles, financial and governmental reporting standards as prescribed by the appropriate accounting standards board.

## Audits

### A. Not-for-Profit Corporations

1. This subsection A applies to any corporation, trust, association, cooperative or other organization that : (i) is operated primarily for scientific, educational, service, charitable or similar purposes in the public interest; (ii) is not organized primarily for profit; and (iii) uses its net process to maintain, improve or expand its operations.
2. The Contractor shall provide the County with a copy of its applicable IRS Form 990 (Return of Organization Exempt from Tax), IRS Form 1065 (Partnership tax return), or equivalent when requested.
3. The Contractor shall comply with the specific requirements for independent financial audits or alternative as follows:
  - a. A Contractor receiving \$500,000 or more in direct or indirect federal funding from all sources during its fiscal year, including other forms of federal financial assistance shall have a single audit or program-specific audit conducted for that year. Such audit shall be done in accordance with the provisions of the Single Audit Act Amendments of 1996 as implemented through the Federal Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations, as revised.
  - b. A Contractor receiving \$300,000 or more from all fund sources during their fiscal year that is not otherwise subject to the requirements of OMB Circular A-133 shall have a financial statement audit conducted for that year. Such audit shall be performed by an independent certified public accountant and conducted in accordance with the American Institute of Certified Public Accountants' (AICPA) generally accepted auditing standards.
  - c. An Contractor receiving \$50,000 or more but less than \$300,000 from all fund sources during its fiscal year shall be required to complete a limited scope financial statement/internal control review as defined by the AICPA and according to AICPA standards, provided the Contractor meets all of the following criteria:
    - i. The Contractor previously provided to the County a financial statement audit that was completed by an independent certified public accountant and conducted in accordance with AICPA generally accepted auditing standards, for that Contractor's most recently completed fiscal period;
    - ii. That financial statement audit and any associated management letter show no reportable conditions or internal control issues; and
    - iii. There has been no turnover in key staff since the beginning of the period for which the audit was completed.

Any limited scope financial statement/internal control review authorized under this subsection shall be conducted in accordance with the AICPA's Statements on Standards for Attestation Engagements and shall be performed by an independent certified public accountant.

If the Contractor does not meet the qualifications in IX, A, 3, c, i. through iii, then the Contractor shall provide a financial statement audit.

- d. A Contractor receiving less than \$50,000 from all fund sources during its fiscal year shall submit a compilation of financial statements that has been certified as accurate and complete by the Contractor's Board of Directors.
  - e. The County reserves the right to require an independent financial statement audit at its discretion based on changes in circumstances relating to the financial and programmatic conditions of the Contractor.
- 4. A Contractor which is not subject to OMB Circular A-133 may, in extraordinary circumstances, request a waiver of audit requirements and, with the review and upon approval of the County, substitute for the above requirements other forms of financial reporting or fiscal representation certified by the Contractor's Board of Directors.
  - 5. The Contractor shall provide to the County a copy of the audit report, including any management letter or official correspondence submitted by the auditor, its response and corrective action plan for all findings and reportable conditions contained in its previous audit or any alternative documents required under Section IX. A, 3 of this Contract. These documents shall be submitted no later than six months subsequent to the end of the Contractor's fiscal year.
  - 6. If additional federal and/or state audit or review requirements are imposed on the County during the term of this Contract, the Contractor agrees this Contract may be amended to require that the Contractor comply with any such additional audit requirements. Even if this Contract is not amended, the Contractor agrees to comply with any such additional audit requirements.
  - 7. If the Contractor receives a financial audit, including an A-133 audit, due to requirements other than stated herein, such audit shall be provided to the County within the time period identified in Section IX. A. 4. even if not otherwise required under this Section.

B. Municipal Corporations

If the Contractor is a municipal corporation in the state of Washington, it shall submit to the County a copy of its annual report of examination/audit, conducted by the Washington State Auditor, within 30 days of receipt, which submittal shall constitute compliance with Section IX.

C. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) number for the CDBG Program is 14.218. The CFDA number for the HOME program is 14.239. The CFDA number for Recovery Act Fund (CDBG-R) funds is 14.253. Additional federal and/or state audit or review requirements may be imposed on the County, and if the Contractor has CDBG, HOME or CDBG-R funds in the Contract, it shall be required to comply with these requirements.

X. MAINTENANCE OF RECORDS

A. Scope of Records

The Contractor shall maintain accounts and records, including personnel, property, financial, and programmatic records and other such records specified in each Project/Program Exhibit or otherwise deemed necessary by the County to ensure proper accounting for all Contract funds and compliance with this Contract.

B. Time for Retention of Records

Records required to be maintained in subsection A above shall be maintained for a period of six years after the termination date, unless a different period for records retention is specified in the Project/Program Exhibit.

C. Location of Records/Notice to County

The Contractor shall inform the County in writing of the location, if different from the Contractor address listed on page one of this Contract, of the aforesaid books, records, documents, and other evidence and shall notify the County in writing of any changes in location within ten working days of any such relocation.

Projects using federal funds shall also comply with subsections D, E, F, G, H, I, J, K, L, and M.

D. Federal Exceptions to Retention Requirements

Exceptions to the six year retention period are as follows: (1) Records that are the subject of audit findings, litigation, or claims shall be retained until such findings, litigation or claims have been resolved; and (2) The retention period for real property and equipment records starts from the date of the disposition, replacement or transfer at the direction of the County.

E. Financial Management Records

Financial records shall identify adequately the source and application of funds for activities within this Contract, in accordance with the provisions of 24 CFR § 85.20 and the OMB Circular A-87 for governmental agencies, 24 CFR § 84.21 and OMB Circular A-122 for Nonprofit Corporations. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income.

F. Tenant Notification and Relocation Records

If the Contractor is acquiring property with existing tenants, Contractor record keeping for tenant notification and relocation must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The "Uniform Relocation Act"), and regulations at 49 CFR Part 24. Indication of the overall status of the relocation workload and a separate relocation record for each person, business, organization and farm operation displaced or in the relocation workload must be kept.

G. Acquisition Records

If the Contractor is using funds under this Contract for property acquisition, the Contractor must maintain a separate acquisition file for each acquisition process documenting compliance with Uniform Relocation Act regulations at 49 CFR Part 24, including a notice of voluntary sale.

H. Beneficiary Records

The Contractor agrees to maintain racial, ethnic, disability status, single head of household, household income, and gender data showing the extent to which these categories of persons have participated in, or benefited from, the activities carried out under this Contract if required in a Project/Program Exhibit.

I. Labor Standards

If the Contractor is using funds under this Contract for construction work, the Contractor shall maintain records documenting compliance by all construction contractors with the labor standards as required under 24 CFR § 570.603 for CDBG funds and 24 CFR § 92.354 for HOME funds.

J. Other Construction Records

The Contractor and all of its contractors shall maintain records and information necessary to document the level of utilization of state certified small, minority, and women-owned businesses, and other businesses as subcontractors and suppliers under this Contract. The Contractor shall also maintain all written quotes, bids, estimates or proposals submitted by the contractor and any and all businesses seeking to participate in this Contract. The Contractor shall make such documents available to the County for inspection and copying upon request.

K. Employment Records

If the Contractor is a municipal corporation or a Contractor of the State of Washington, it agrees to maintain the following data for each of the Contractor's operating units funded in whole or in part with CDBG funds provided under this Contract:

1. Employment data with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and
2. Documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap.

L. Records Regarding Remedy of Past Discrimination

The Contractor shall maintain documentation of the affirmative action measures the Contractor has taken to overcome prior discrimination if a court or HUD has found that the Contractor has previously discriminated against persons on the grounds of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds pursuant to 24 CFR Part 121.

M. Record-Keeping Requirements and Site Visits

The Contractor shall maintain, for at least six years after completion of all work under this Contract, the following:

1. Records of employment, employment advertisements, application forms, and other pertinent data and records related to the Contract for the purpose of monitoring, audit and investigation to determine compliance with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the Contract documents; and
2. Records, including written quotes, bids, estimates or proposals submitted to the Contractor 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.

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

## **XI. EVALUATIONS AND INSPECTIONS**

### **A. Right of Access to Facilities for Inspection of Records**

The Contractor shall provide right of access to its facilities, including those of any subcontractor, to the County, the state, and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the activities funded under this Contract. The County shall give advance notice to the Contractor in the case of fiscal audits to be conducted by the County.

### **B. Time for Inspection and Retention**

The records and documents with respect to all matters covered by this Contract shall be subject at all times to inspection, review, or audit by the County and/or federal/state officials so authorized by law during the performance of this Contract and six years after the termination date, unless a different period is specified in the Project/Program Exhibit or a longer retention period is required by law.

### **C. Agreement to Cooperate**

The Contractor agrees to cooperate with the County or its agent in the evaluation of the Contractor's performance under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.56.

## **XII. PROPRIETARY RIGHTS**

- A. The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of the Contractor. The Contractor agrees to and does hereby grant to the County, irrevocable, nonexclusive, and royalty-free license to reproduce, publish or otherwise use, and to authorize others to use, according to law, any work material or article and use any method that may be developed as part of the work under this Contract.
- B. The foregoing products license shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor, which are modified for use in the performance of this Contract.
- C. The foregoing provisions of this section shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor that are not modified for use in the performance of this Contract.

### XIII. CORRECTIVE ACTION

#### A. Default by Contractor

If the County determines that a breach of contract has occurred because the Contractor failed to comply with any material terms or conditions of this Contract or the Contractor has failed to provide in any manner the work or services agreed to in any Project/Program Exhibit attached hereto, and if the County deems said breach to warrant corrective action, the following sequential procedure shall apply.

1. The County shall notify the Contractor in writing of the nature of the breach.
2. The Contractor shall submit a plan describing the specific steps being taken to correct the specified deficiencies (the "corrective action plan"). The corrective action plan shall be submitted to the County within ten business days from the Contractor's receipt of the County's notice under this Section. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which completion date shall not be more than 30 days from the date the County receives the Contractor's corrective action plan, unless the County, in its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions.
3. The County shall notify the Contractor, in writing of the County's determination as to the sufficiency of the Plan. The County shall have sole discretion in determining the sufficiency of the Contractor's corrective action plan.

#### B. Termination of Contract

In the event that the Contractor does not respond within the appropriate time with a corrective action plan, or the Contractor's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Subsection XV (B).

#### C. County Withholding of Payment

In addition, the County may withhold any payment owed the Contractor or prohibit the Contractor from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed.

#### D. No Waiver of Other Remedies

Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section XV or other remedies authorized by law.

### XIV. ASSIGNMENT

The Contractor shall not assign, transfer or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the prior written consent of the County. Additional terms for County consent to such assignment, transfer or subcontract may be described in a Project/Program Exhibit. Said consent must be sought in writing by the Contractor not less than 15 business days prior to the date of any proposed assignment, transfer or subcontract. The Contractor shall deliver to the County with its request for consent, such information regarding the proposed assignee, transferee or subcontractee, including its proposed mission, legal status, and financial and management capabilities as is reasonably available to the Contractor. Within 15 days after such request for consent, King County may reasonably request additional available information on the

proposed assignee, subcontractee or transferee. If the County shall give its consent, this Section shall nevertheless continue in full force and effect. Any assignment, transfer or subcontract without prior County consent shall be void.

XV. **TERMINATION**

A. Termination for Convenience

1. This Contract may be terminated by the County without cause, in whole or in part, prior to the termination date specified in the Project/Program Exhibit, by providing the Contractor 30 days advance written notice of the termination.
2. In addition to the foregoing, if expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth in the Project/Program Exhibit, the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.
3. If the Contract is terminated as provided above:
  - a. The County shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and
  - b. The Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.

B. Termination for Cause

1. The County may terminate this Contract, in whole or in part, upon seven days advance written notice to the Contractor in the event:
  - a. The Contractor materially breaches any duty, obligation, or service required pursuant to this Contract and such breach has not been cured by a corrective action plan acceptable to the County; or
  - b. The duties, obligations, or services required herein become impossible, illegal or not feasible.
2. If the County terminates the Contract pursuant to this section, the Contractor shall be liable for damages, including any additional costs of procurement of similar services from another source.
3. If the termination results from acts or omissions of the Contractor, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the Contractor shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the Contractor by the County.
4. If County or other expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth above in Section II, the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.
5. If the Contract is terminated as provided in this Subsection:
  - a. The County shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and

- b. The Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.
6. Funding or obligation under this Contract beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in the Contract. Should such appropriation not be approved, this Contract shall terminate at the close of the current appropriation year.

C. Waiver

Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract at law or in equity that either party may have in the event that the obligations, terms and conditions set forth in this Contract are breached by the other party

XVI. ENTIRE CONTRACT/WAIVER OF DEFAULT

The parties agree that this Contract is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Contract. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Contract 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 Contract unless stated to be such through written approval by the County, which shall be attached to the original Contract.

XVII. HOLD HARMLESS AND INDEMNIFICATION

A. Contractor is an Independent Contractor

In providing services under this Contract, the Contractor is an independent contractor and neither it, nor its officers, agents or employees, are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits or taxes by, or on behalf of, the Contractor, its employees, and/or others by reason of this Contract. The Contractor shall protect, indemnify, and hold harmless the County, its officers, agents and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from:

1. The Contractor's failure to pay any such compensation, wages, benefits or taxes; and/or
2. The supplying to the Contractor of work, services, materials or supplies by Contractor employees or other suppliers in connection with or support of the performance of this Contract.

B. Contractor Agreement to Repay

The Contractor 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, intentional act, and/or failure, for any reason, to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives.

This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract or the Termination Sections.

C. Contractor Indemnification of County

1. The Contractor shall protect, defend, indemnify and hold harmless the County, their officers, employees and agents from any and all costs, claims, judgments and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of the Contractor, its officers, employees, contractors, subcontractors and/or agents, in its performance and/or non-performance of its obligations under this Contract. The Contractor agrees that its obligations under this subparagraph 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, the Contractor, by mutual negotiation, hereby waives, as respects to the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of RCW, Title 51. In the event the County incurs any judgment, award and/or cost arising there from including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor. To the extent that a Contractor subcontractor fails to satisfy its obligation to defend and indemnify King County, as detailed in Section XVII, the Contractor shall protect, defend, indemnify and hold harmless King County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards or damages arising out of, or in any way resulting from the negligent act or omissions of the Contractor's contractor/subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract.
2. Claims shall include, but not be limited to, assertions that use or transfer of software, book, document, report, film, tape, or sound reproduction, or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name and/or otherwise results in unfair trade practice.
3. The Contractor agrees not to perform any acts that include use or transfer of software, book, document, report, film, tape, or sound reproduction, or material of any kind, delivered hereunder, that constitutes an infringement of any copyright, patent, trademark, trade name and/or otherwise results in unfair trade practice. The Contractor agrees to indemnify the County for any harm resulting from unfair trade practices.
4. The provisions in this section shall survive the termination and/or duration of the contract term.
5. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.
6. The indemnification, protection, defense and hold harmless obligations contained herein shall survive the expiration, abandonment or termination of this Contract.

XVIII. INSURANCE REQUIREMENTS—GENERAL

A. Insurance Required

By the date of execution of this Contract, the Contractor shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of

work hereunder by the Contractor, its agents, representatives, employees and/or contractor/subcontractors. The Contractor or contractor/subcontractor shall pay the costs of such insurance. The Contractor shall furnish separate certificates of insurance and policy endorsements from each contractor/subcontractor as evidence of compliance with the insurance requirements of this Contract.

The Contractor is responsible for ensuring compliance with all of the insurance requirements stated herein. Failure by the Contractor, its agents, employees, officers, contractor/subcontractors, providers and/or provider subcontractors to comply with the insurance requirements stated herein shall constitute a material breach of this Contract.

Each insurance policy shall be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior County approval. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of Contract termination, and/or conversion from a "claims made" form to an "occurrence" coverage form.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded by said policies, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained in this provision shall affect and/or alter the application of any other provision contained within this Contract.

B. Risk Assessment by Contractor

By requiring such minimum insurance, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract, nor shall such minimum limits be construed to limit the limits available under any insurance coverage obtained by the Contractor. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

C. Minimum Scope of Insurance. Coverage shall be at least as broad as the following:

1. General Liability

Insurance Services Office form number (CG 00 01) covering COMMERCIAL GENERAL LIABILITY.

2. Professional Liability, Errors and Omissions Coverage

In the event that services delivered pursuant to this Contract either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided. "Professional Services", for the purpose of this Contract section, shall mean any services provided by a licensed professional or those services that require a professional standard of care.

3. Automobile Liability

Insurance Services Office form number (CA 00 01) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9.

4. Workers' Compensation

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law.

5. Stop Gap/Employers Liability

Coverage shall be at least as broad as the protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

6. Property Insurance

Insurance Services Office form number (CP 00 10) covering **BUILDING AND PERSONAL PROPERTY COVERAGE** and Insurance Services Office form number (CP 10 30) **CAUSES OF LOSS – SPECIAL FORM** or project appropriate equivalent.

7. National Flood Insurance

The use of CDBG and HOME funds for acquisition or construction purposes in identified special flood hazard areas shall be subject to Contractor mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub L. 93-237).

8. Builder's Risk/Installation Floater

The Contractor shall procure and maintain during the life of the Contract, or until acceptance of the project by King County, whichever is longer, "All Risk" Builders Risk Insurance at least as broad as ISO form number CP0020 (Builders Risk Coverage Form) with ISO form number CP0030 (Causes of Loss—Special Form) including coverage for collapse, theft and property in transit. The coverage shall insure for direct physical loss to property of the entire construction project, for one hundred percent of the replacement value thereof. The policy shall be endorsed to cover the interests, as they may appear, of King County, Owner, Contractor and subcontractors of all tiers with King County listed as a loss payee.

D. Minimum Limits of Insurance—Capital Projects

The Contractor shall maintain limits no less than the following:

1. Commercial General Liability: \$1,000,000 combined single limit per occurrence by bodily injury, personal injury, and property damage; and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
2. Professional Liability, Errors, and Omissions: \$1,000,000, Per Claim and in the Aggregate.
3. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage if the use of motor vehicles is contemplated.
4. Workers' Compensation: Statutory requirements of the state of residency.
5. Stop Gap /Employers Liability: \$1,000,000.

6. Property Insurance: One hundred percent replacement value of funded structure.

E. Minimum Limits of Insurance—Building Construction Period

Prior to commencement of building construction and until construction is complete and approved by the Contractor, the Contractor shall cause the construction contractor and related professionals to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to this Contract. The Contractor and County shall be named as additional insureds on liability policies except Workers Compensation and Professional Liability, and as Named Insureds on Builders Risk policies. The cost of such insurance shall be paid by the Contractor and/or any of the Contractor's contractors/ subcontractors. The Contractor shall maintain limits no less than the following:

1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage and \$2,000,000 in the aggregate.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Professional Liability, Errors & Omissions: \$1,000,000, Per Claim and in the Aggregate.
4. Builder's Risk Insurance: One hundred percent replacement cost value.
5. Workers Compensation: Statutory requirements of the State of residency.
6. Stop Gap or Employers Liability Coverage: \$1,000,000.

F. Minimum Limits of Insurance—Services Agreements: The Contractor shall maintain limits no less than the following:

1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage and \$2,000,000 in the aggregate.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Professional Liability, Errors & Omissions: \$1,000,000, Per Claim and in the Aggregate.
4. Workers Compensation: Statutory requirements of the State of Residency.
5. Stop Gap or Employers Liability Coverage: \$1,000,000.

Paragraphs G, H, I, J, K and L below apply to Capital Projects, Construction Projects and Services Contracts.

G. 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 Contractor's liability to the County and shall be the sole responsibility of the Contractor.

#### H. Other Insurance Provisions

The insurance policies required in this Contract are to contain, or be endorsed to contain, the following provisions:

1. All Liability Policies except Professional and Workers Compensation.
  - a. 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 Contractor/Contractor in connection with this Contract. Such coverage shall include Products-Completed Operations.
  - b. To the extent of the Contractor's/Contractor's negligence, the Contractor's/ Contractor's insurance coverage shall be primary insurance 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 Contractor's insurance or benefit the Contractor in any way.
  - c. The Contractor'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.
2. Property Coverage Policies
  - a. The County shall be added to all Property Coverage Policies as a loss payee as its interests may appear.
  - b. The County shall be added as a Named Insured as their interests may appear to all Builders Risk policies.
3. All Policies

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after 30 days prior written notice has been given to the County.

#### I. 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 Contractor 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.

#### J. Verification of Coverage

The Contractor shall furnish the County with certificates of insurance and endorsements required by this Contract. The certificates and endorsements for each insurance policy are to be signed by a 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 Contract. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

K. Subcontractors

The Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. If the Contractor is relying on the insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Contract, then such requirements and documentation shall be subject to all of the requirements stated herein.

L. Municipal or State Contractor Provisions

If the Contractor is a municipal corporation or a Contractor of the state of Washington and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be provided for the self-insured requirements and attached hereto and be incorporated by reference and shall constitute compliance with this Section. If the certificate of self-insurance does not cover all mandatory requirements, the Contractor shall provide separate certificates and endorsements that document coverage.

XIX. **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

A. Equal Benefits to Employees with Domestic Partners

To the extent prohibited by KCC Chapter 12.19, King County's "Equal Benefits" (EB) ordinance, and related administrative rules adopted by the County Executive, as a condition of a competitive award of a contract valued at \$25,000 or more, non-public Contractors agree not to discriminate in the provision of employee benefits between an employees with spouses, employees with domestic partners or employees who reside with legally domiciled members of households during the performance of this Contract. Failure to comply with this provision shall be considered a material breach of this Contract, and may subject the Contractor to administrative sanctions and remedies for breach.

When a competitively awarded contract is valued at \$25,000 or more, the Contractor shall complete a Worksheet and Declaration form for County review and acceptance prior to Contract execution. The EB Compliance forms, KCC Chapter 12.19, and related administrative rules are incorporated herein by reference. They are also available online at:

[http://www.kingcounty.gov/operations/procurement/Services/Equal\\_Benefits.aspx](http://www.kingcounty.gov/operations/procurement/Services/Equal_Benefits.aspx)

B. Nondiscrimination in Employment Provision of Services

To the extent prohibited by KCC Chapter 12.16 or 12.17, during the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate or tolerate harassment on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

C. Nondiscrimination in Subcontracting Practices

To the extent prohibited by KCC Chapter 12.16 or 12.17, during the term of this Contract, the Contractor 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 Contractor shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

D. Compliance with Laws and Regulations

The Contractor 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, RCW Chapter 49.60, Titles VI and VII of the Civil Rights Act of 1964, the American with Disabilities Act, and the Restoration Act of 1987. In addition, King County Code chapters 12.16, 12.17 and 12.18 are incorporated herein by reference and the requirements in these code chapters shall specifically apply to this contract, to the full extent applicable. The Contractor shall further comply fully with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

E. Small Contractors and Suppliers and Minority and Women Business Enterprises Opportunities

King County encourages the Contractor to utilize small businesses, including Small Contractors and Suppliers (SCS), as defined below, and minority-owned and women-owned business enterprises certified by the Washington state Office of Minority and Women's Business Enterprises (OMWBE) in County contracts. The County encourages the Contractor to use the following voluntary practices to promote open competitive opportunities for small businesses, including SCS firms and minority-owned and women-owned business enterprises:

1. Inquire about King County's Contracting Opportunities Program. King County has established a Contracting Opportunities Program to maximize the participation of Small Contractors and Suppliers (SCS) in the award of King County contracts. The Program is open to all SCS firms certified by King County Business Development and Contract Compliance (BDCC). As determined by BDCC and identified in the solicitation documents issued by the County, the Program will apply to specific contracts. However, for those contracts not subject to the Program or for which the Contractor elected not to participate in the Program during the solicitation stage, the Contractor is still encouraged to inquire voluntarily about available firms. Program materials, including application forms and a directory of certified SCS firms, are available at the following Web-site address:  
<http://www.kingcounty.gov/bdcc>

The term "Small Contractors and Suppliers" (SCS) means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. The relevant financial condition for eligibility under the Program is set at

fifty percent (50%) of the Federal Small Business Administration (SBA) small business size standards using the North American Industry Classification System and Owners' Personal Net Worth less than \$750,000 dollars.

2. Contact the Washington State Office of Minority and Women's Business Enterprises (OMWBE) to obtain a list of certified minority-owned and women-owned business enterprises by visiting their website at <http://www.omwbe.wa.gov/> or by Toll Free telephone (866) 208-1064.
3. Use the services of available community organizations, consultant groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses, including SCS firms and minority-owned and women-owned business enterprises.

F. Equal Employment Opportunity Efforts

The Contractor shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age. The Contractor's equal employment opportunity efforts shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth this nondiscrimination clause. In accordance with KCC 12.16.010.j, "equal employment opportunity efforts" shall mean active efforts to ensure equal opportunity in employment that is free from all forms of discrimination.

G. Compliance with Section 504 of the Rehabilitation Act of 1973 as amended (Section 504) and the American Disabilities Act of 1990 as amended (ADA)

Pursuant to Title II of the ADA and Section 504 the County must not discriminate against people with disabilities in providing services, programs or activities even if those services, programs or activities are carried out by contractors. The Contractor agrees that it shall provide all programs, services and activities to County employees or members of the public under this Contract in the same manner as King County is obligated to under Title II of the ADA, and Section 504 and shall not deny participation or the benefits of such services, programs or activities to people with disabilities on the basis of such disability. Failure to comply with this section shall be a material breach of, and grounds for, the immediate termination of this Contract.

1. The Contractor agrees to provide to persons with disabilities access to programs, activities and services provided under the Contract or agreement, as required by the disability access laws as defined by KCC 12.16; and
2. The Contractor shall not discriminate against persons with disabilities in providing the work under the Contract. In any subcontracts for the programs, activities and services under their contract or agreement, the Contractor shall include the requirement that the subcontractor provide to persons with disabilities access to programs, activities and services provided under the contract or agreement as required by the disability access laws as defined by KCC 12.16, that the subcontractor shall not discriminate against persons with disabilities in providing the work under the Contract and that the subcontractor shall provide that the County is a third party beneficiary to that required provision.

#### H. 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 Contract and by applicable law.

#### I. Fair Housing Protections

The Contractor shall comply with the federal Fair Housing Act, Public Law 90-284 (42 USC 3601 et seq.). The Contractor shall take necessary and appropriate actions to prevent discrimination in any housing-related project under this Contract, which includes rental housing projects and/or projects that include residential real estate-related transactions, as required by the Federal Fair Housing Act as amended (42 USC 3601) and the Washington State Law Against Discrimination (RCW Chapter 49.60). Residential real estate-related transactions include the making or purchasing of loans or the provision of financial assistance secured by real estate, or the making or purchasing of loans or financial assistance for the purchasing, constructing, improving, repairing or maintaining of a dwelling. Rental housing includes any dwelling that is intended for occupancy as a residence for one or more families by lease, sublease or by grant for a consideration of the right to occupy Premises not owned by the occupant. In addition, except for projects located in incorporated jurisdictions, the Contractor shall comply with the applicable provisions of the King County Open Housing Ordinance, codified at Chapter 12.20 of the King County Code, which prohibits practices of housing discrimination against any person on the basis of age, ancestry, color, disability, marital status, national origin, parental status, possession of Section 8 housing assistance, race, religion, retaliation, sex, and sexual orientation.

Projects using federal funds shall also comply with subsections J, K, L, and M below.

#### J. Additional Federal Nondiscrimination Requirements

The Contractor shall comply with all applicable federal laws prohibiting discrimination, including the following:

1. Presidential Executive Order 11063 as amended and implementing regulations at 24 CFR Part 107;
2. Section 109 of the HCD Act of 1974, as amended (42 USC 5301);
3. The Americans with Disabilities Act (42 USC 1213; 47 USC 155, 201, 218 and 225); and
4. Section 504 of the Rehabilitation Act of 1973 and regulations at 24 CFR Part 8.

#### K. Prohibited Discriminatory Actions

1. Except where expressly authorized by federal law, the Contractor may not, under any program or activity to which this Contract applies, directly or through contractual or other arrangements, discriminate on the grounds of age, color, creed, familial status, marital status, nationality, religion, race, sex, sexual orientation, or the presence of any, physical, mental or sensory disability. Discriminatory actions may include but are not limited to the following:
  - a. Denying any person access to facilities, services, financial aid or other benefits provided under the program or activity;

- b. Denying any person services due to limited English proficiency;
  - c. Providing any person with facilities, services, financial aid or other benefits, which are different, or are provided in a different form from that provided to others under the program or activity;
  - d. Subjecting any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit under the program or activity;
  - e. Restricting in any way access to or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity;
  - f. Treating any person differently from others in determining whether the person satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity;
  - g. Denying any person any opportunity to participate in a program or activity as an employee; and
  - h. Failing to design and construct facilities for first occupancy after January 26, 1993 that are readily accessible to and usable by individuals with disabilities and failure to remove architectural and communication barriers that are structural in nature in existing facilities, where such removal can be accomplished without difficulty and expense.
2. The Contractor shall not utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of age, color, familial status, nationality, race, religion, sex, or sexual orientation; or mental, physical, or sensory disability; or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular age, color, familial status, nationality, race, religion, sex, or sexual orientation; or the presence of any mental, physical, or sensory disability.
  3. The Contractor, in determining the site or location of housing or facilities provided in whole or in part with funds under this Contract, may not make selections of such site or location which have the effect of excluding individuals, denying them benefits, or subjecting them to discrimination on the grounds of age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental or physical disability; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the HCD Act or of the HUD Regulations.

#### L. Employment Projections

In all solicitations under this Contract, the Contractor shall state that all qualified applicants will be considered for employment. The words "equal opportunity employer" in advertisements shall constitute compliance with this Section.

#### M. No Conflict with Federal Requirements.

As indicated by HUD Notice CPD 04-10, a faith-based organization's exemption from the federal prohibition on employment discrimination on the basis of religion, set forth in 42 USC 2000e-1(a), is not forfeited when the organization receives HUD funding.

Faith-based organizations, like any other entity participating in a HUD-funded program, must, however, comply with all the statutory requirements of that particular HUD-funded program. Both the CDBG and HOME Programs contain statutory provisions imposing non-discrimination requirements on all subrecipients, subgrantees or contractors. Religious organizations that believe that certain non-discrimination statutory requirements are substantially burdensome may be entitled to protection under the Religious Freedom Restoration Act [42 USC4000bb-3, 4000bb-2(1)] which applies to all federal law and its implementation. Subrecipients, subgrantees, or contractors should be aware that anti-discrimination provisions of Section 109 of the Housing and Community Development Act of 1974, Section 282 of the HOME Investment partnership Act may pose questions of conformance with Title VII of the Civil Rights Act of 1964 and future court rulings could define more specifically the application of these laws to faith-based organizations. In the event that a provision of this Contract is deemed to be in actual conflict with federal law, the conflicting provision in this Contract shall not apply.

## **XX. SUBCONTRACTS AND PURCHASES**

### **A. Subcontract Defined**

"Subcontract" shall mean any agreement between the Contractor and a subcontractor or between subcontractors that is based on this Contract, provided that the term "subcontract" does not include the purchase of (1) support services not related to the subject matter of this Contract, or (2) supplies.

### **B. Writing Required**

Any work or services assigned or subcontracted hereunder shall be in writing and must be approved by the County as provided in Section XIV. The Contractor agrees that it is as fully responsible to the County for the acts and omissions of its subcontractors and their employees and agents, as it is for the acts and omissions of its own employees and agents, as specified in Subsection XVII (C).

### **C. Required Contract Terms**

The Contractor shall include the applicable provisions of Sections XVIII, XIX, and XX in every subcontract or purchase order for goods or services which are paid for in whole or in part with funds provided under this Contract. The Contractor agrees to include the following language verbatim in every subcontract, provider agreement, or purchase agreement for services, which relate to the subject matter of this Contract:

"Subcontractor shall protect, defend, indemnify, and hold harmless King County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the negligent act or omissions of subcontractor, its officers, employee, and/or agents in connection with or in support of this Contract. Subcontractor 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 subcontractor to enforce the provisions of this paragraph."

Projects using federal funds must also comply with subsections D, E, F, G and H.

D. Debarred Contractors

The Contractor certifies that neither the Contractor nor any person or entity with a controlling interest in the Contractor is under suspension, debarment, voluntary exclusion or determination of ineligibility from participation in federal assistance programs under Presidential Executive Order 12549 or 12689, "Debarment and Suspension". The Contractor further certifies that neither the Contractor nor any person or entity with a controlling interest in the Contractor has any proceeding pending to suspend, debar, exclude or determine them ineligible from participation in federal assistance programs under Presidential Executive Order 12549 or 12689.

The Contractor shall not make any award at any time to any contractor, which is debarred, suspended or excluded, from participation in federal assistance programs under Presidential Executive Order 12549, "Debarment and Suspension".

The Contractor shall ensure that all subcontractors receiving any federal funds pursuant to this agreement have not been disbarred or suspended from federal contract participation. This may be done by checking the Excluded Parties List System <http://epls.arnet.gov>, which lists all suspended and debarred entities.

E. Subcontracting Requirements

A Contractor which receives federal funds under this Contract also shall include the following Sections in every subcontract or purchase order for goods and services which are paid in whole or in part with funds provided under this Contract: Sections XVII.B, XVIII, K, XIX, and XXII.B; and, if the subcontract is for construction, Sections XXXIV and XXXV.

F. Federal Procurement Requirements

If the Contractor is a municipal corporation or a Contractor of the State of Washington, it agrees to comply with procurement requirements specified in 24 CFR § 85.36(b) through (g). If the Contractor is a nonprofit corporation, it agrees to comply with procurement requirements specified in 24 CFR §§ 84.40 through 84.48 or as otherwise provided in the Project/Program Exhibit. The regulations at 24 CFR § 85.36 (b) through (g) and 24 CFR §§ 84.40 through 84.48, require that all goods and services, irrespective of cost, be procured using a competitive process.

G. Federal Bid Guarantee and Bond Requirements

If the Contractor is subcontracting construction work under this Contract, the subcontract shall require for any construction contracts exceeding \$100,000:

1. A bid guarantee from each bidder equivalent to five percent of the bid price;
2. A performance bond from the contractor for one hundred percent of the contract price; and
3. A payment bond from the contractor for one hundred percent of the contract price. The Contractor may, at its discretion, require any of these requirements on construction contracts of less than \$100,000. The specific requirements for bid guarantees and bonds are at 24 CFR § 84.48(c) for nonprofit corporations and 24 CFR § 85.36(h) for municipal corporations and agencies of the State of Washington.

H. Failure to Comply is Default

Failure by the Contractor to require compliance with the above terms and conditions in subcontracts shall constitute a breach of this Contract.

XXI. NONDISCRIMINATION IN SUBCONTRACTING PRACTICES

Projects using federal funds shall comply with the following requirements:

A. Federal Requirements

In soliciting subcontractors to supply goods or services for the activities under this Contract, the Contractor shall comply with 24 CFR § 85.36(e) as amended if the Contractor is a municipal corporation or a Contractor of the State of Washington, and 24 CFR § 84.44(b)(1)-(5) if the Contractor is a nonprofit corporation. In accordance with these regulations, the Contractor 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.

B. Nondiscrimination in Federally Assisted Construction

The Contractor 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.

XXII. CONFLICT OF INTEREST

A. King County Code Chapter 3.04 Compliance.

1. The Contractor shall comply with applicable provisions of KCC Chapter 3.04. Failure to comply with such provisions shall be a material breach of Contract and may result in termination of this Contract pursuant to Section XV and subject the Contractor to remedies stated therein or otherwise available to the County at law or in equity. This section shall not apply to a Contractor that is a municipal corporation which has adopted an employee code of ethics; provided that nothing in this section is intended to contract away such a Contractor's obligation to comply with any KCC Chapter 3.04 provision that applies independent of this Contract.

2. No Preferential Treatment

The Contractor 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 Contractor 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.

3. Disclosure of Current and Former County Employees

To avoid any actual or potential conflict of interest or unethical conduct:

- a. County employees or former County employees are prohibited from assisting with the preparation of proposals or contracting with, influencing, advocating, advising or consulting with a third party, including Contractor, while employed

by the County or within one (1) year after leaving County employment if he/she participated in determining the Work to be done or processes to be followed while a County employee.

- b. Contractor shall identify at the time of offer current or former County employees involved in the preparation of proposals or the anticipated performance of Work if awarded the Contract. Failure to identify current or former County employees involved in this Contract may result in termination of this Contract.
- c. After Contract award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.

**B. No Conflict of Interest**

The Contractor shall abide by the provision of 24 CFR §§ 84.42 and 570.611, if applicable, and by the following:

- 1. The Contractor shall maintain a written code or standards of conduct that shall govern the performance of its officer, employees or agents engaged in the award and administration of contracts supported by funds under this Contract;
- 2. No employee, director, officer or agent of the Contractor shall participate in the selection or in the award, or administration of a contract supported by funds under this contract if a conflict of interest, real or apparent, would be involved. By way of example, such a conflict would arise if such a person, or his or her employer, immediate family member or partner has financial or other interest in the entity selected; and
- 3. No covered persons who exercise or have exercised any functions or responsibilities with respect to any Contract-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may have or obtain a financial interest in any contract, subcontract or agreement regarding a Contract-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure and for one year thereafter. For purposes of this paragraph, "covered persons" includes any person who is an employee, agent, consultant, officer, or director of the Contractor or the County

**XXIII. BOARD OF DIRECTORS**

- A. If the Contractor is incorporated, it must have an active, legally constituted board of directors in accordance with the requirements of RCW Chapters 23B or 24, to the extent applicable.
- B. The following additional requirements shall apply to the agencies that qualify as non-profit organizations under USC, Title 26, Subtitle A, Chapter 1, Subchapter F, Part 1, Section 501(C)(3).
  - 1. The Contractor shall have a Board of Directors that shall be comprised of neither employees nor relatives of employees, officers, or directors of the Contractor. For the purposes of this Section, a relative is defined as husband, wife, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, grandparent, grandchild, uncle, aunt, domestic partner and child of domestic partner. In addition, the relatives of a

domestic partner shall be considered relatives to the same extent such relatives would be included in this Section, as if the employee and domestic partner were married.

2. The Board of Directors shall meet regularly.
3. The Board of Directors shall cause to be adopted a formal conflict of interest policy for Board members that complies with the applicable provisions of the Internal Revenue Code and its 501(C)(3) status, and addresses issues regarding gifts, financial gain, and improper use of position.

**XXIV. CONFIDENTIALITY**

The Contractor agrees that all information, records, and data collected in connection with this Contract shall be protected from unauthorized disclosure in accordance with applicable state and federal law.

**XXV. PERSONAL INFORMATION – NOTICE OF SECURITY BREACH**

- A. If the Contractor maintains computerized or other forms of data that includes personal information owned by the County, the Contractor shall notify the County of any breach of the security of the data immediately following discovery if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person in accordance with RCW 42.56.590 (2).
- B. The Contractor shall provide all information requested by the County including the following in accordance with RCW 42.56.590, KCC 2.14.030, the King County Information Privacy Policy and any other applicable federal, state and local statute:
  1. Circumstances associated with the breach;
  2. Actions taken by the Contractor to respond to the breach ; and
  3. Steps the Contractor shall take to prevent a similar occurrence.

This information shall be provided in a format requested by the County.

- C. The County may at its sole discretion, require the Contractor to contact the appropriate law enforcement agency and to provide the County a copy of the report of the investigation conducted by the law enforcement agency. The Contractor shall also provide the County with any information it has regarding the security breach.
- D. The Contractor shall conspicuously display King County's Privacy Notice and provide a printed copy upon request.
- E. The Contractor shall be responsible for notifying individuals whose personal information may have become available to unauthorized users through a security breach. The Contractor shall also be responsible for any cost associated with notifying the affected individuals. This notification must be in accordance with RCW 42.56.590 (7).
- F. If the Contractor demonstrates that the cost of providing notice would exceed \$250,000, or that the potentially affected persons exceeds \$500,000, or the Contractor does not have sufficient contact information, substitute notice shall consist of the following in accordance with RCW 42.56.590 (7), (c).

1. Email notice when the Contractor has an e-mail address for the subject persons;
  2. Conspicuous posting of the notice on the Contractor's web site page, if the Contractor maintains one; and
  3. Notification to major County-wide media.
- G. For purpose of this section, "personal information" means the same as defined in RCW 42.56.590:
1. An individual's first name or first initial and last name in combination with any one of the following data elements, when either the name or the data elements are not encrypted: social security number; driver's license number or Washington identification card number; or
  2. Account number or credit or debit card number, in combination with any required security code; access code, or password that would permit access to an individual's financial account.

**XXVI. COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)**

Terms used in this Section shall have the same meaning as those terms in the Privacy Rule, 45 CFR Parts 160 and 164.

**A. Obligations and Activities of the Contractor**

1. The Contractor agrees not to use or disclose protected health information other than as permitted or required by this Contract, HIPAA and the Health Information Technology for Economic and Clinical Health Act (HITECH). The Contractor shall use and disclose protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR § 164.504(e). The Contractor is directly responsible for full compliance with the privacy provisions of HIPAA and HITECH that apply to business associates.
2. The Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information that it creates, receives, maintains, or transmits on behalf of the County as required by 45 CFR, Part 164, Subpart C. The Contractor is directly responsible for compliance with the security provisions of HIPAA and HITECH that apply to business associates, including sections 164.308, 164.310, 164.312, and 164.316 of title 45 CFR.
3. Within two business days of the discovery of a breach as defined at 45 CFR § 164.402 the Contractor shall notify the County of any breach of unsecured protected health information. The notification shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the Contractor to have been, accessed, acquired, or disclosed during such breach; a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; a description of the types of unsecured protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved); any steps individuals should take to protect themselves from potential harm resulting from the breach; a brief description of what the Contractor is doing to investigate

the breach, to mitigate harm to individuals, and to protect against any further breaches; the contact procedures of the Contractor for individuals to ask questions or learn additional information, which shall include a toll free number, an e-mail address, Web site, or postal address; and any other information required to be provided to the individual by the County pursuant to 45 CFR § 164.404, as amended. A breach shall be treated as discovered in accordance with the terms of 45 CFR § 164.410. The information shall be updated promptly and provided to the County as requested by the County.

4. The Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of protected health information by the Contractor in violation of the requirements of this Contract or the law.
5. The Contractor agrees to report in writing all unauthorized or otherwise improper disclosures of protected health information or security incident to the County within two days of the Contractor knowledge of such event.
6. The Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.
7. The Contractor agrees to make available protected health information in accordance with 45 CFR § 164.524.
8. The Contractor agrees to make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.526.
9. The Contractor agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of King County, available to the Secretary, in a reasonable time and manner for purposes of the Secretary determining King County's compliance with HIPAA, HITECH or this Contract.
10. The Contractor agrees to make available the information required to provide an accounting of disclosures in accordance with 45 CFR §164.528. Should an individual make a request to the County for an accounting of disclosures of his or her protected health information pursuant to 45 CFR § 164.528, Contractor agrees to promptly provide an accounting, as specified under 42 U.S.C. § 17935(c)(1) and 45 CFR §164.528, of disclosures of protected health information that have been made by the Contractor acting on behalf of the County. The accounting shall be provided by the Contractor to the County or to the individual, as directed by the County.

#### B. Permitted Uses and Disclosures by Business Associate

The Contractor may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, King County as specified in this Contract, provided that such use or disclosure would not violate HIPAA if done by King County or the minimum necessary policies and procedures of King County.

C. Effect of Termination

1. Except as provided in paragraph C.2. of this Section, upon termination of this Contract, for any reason, the Contractor shall return or destroy all protected health information received from the County, or created or received by the Contractor on behalf of the County. This provision shall apply to protected health information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall retain no copies of the protected health information.
2. In the event the Contractor determines that returning or destroying the protected health information is infeasible, the Contractor shall provide to King County notification of the conditions that make return or destruction infeasible. Upon notification that return or destruction of protected health information is infeasible, the Contractor shall extend the protections of the Contract to such protected health information and limit further uses and disclosure of such protected health information to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains such protected health information.

D. Reimbursement for Costs Incurred Due to Breach

Contractor shall reimburse the County, without limitation, for all costs of investigation, dispute resolution, notification of individuals, the media, and the government, and expenses incurred in responding to any audits or other investigation relating to or arising out of a breach of unsecured protected health information by the Contractor.

**XXVII. NOTICES**

Whenever this Contract provides for notice to be provided by one party to another, such notice shall be in writing; and directed to the Chief Executive Officer of the Contractor and the Director of the County Department of Community and Human Services. Any time within which a party must take some action shall be computed from the date that said party receives the notice.

**XXVIII. KING COUNTY RECYCLED PRODUCT PROCUREMENT POLICY**

In accordance with King County Code Chapter KCC 10.16 and King County Executive Policy CON 7-1-2, the Contractor shall use recycled paper for all printed and photocopied documents related to the submission of this solicitation and fulfillment of the Contract and shall, whenever practicable, use both sides of the paper.

**XXIX. SERVICES PROVIDED IN ACCORDANCE WITH LAW AND RULE AND REGULATION**

The Contractor and any subcontractor agree, when applicable, to abide by the terms of Chapters 26.44, 69.54, 70.02, 70.96A, 71.05, 71A.10, 71A.14, 71A.18, 71.20, 71.24, and 71.34 of the Revised Code of Washington, rules and regulations promulgated thereunder, the Basic Interagency Contract between the Department of Social and Health Services and King County, as amended, and regulations of the state and federal governments, as applicable, which control disposition of funds granted under this Contract, all of which are incorporated herein by reference.

**XXX. POLITICAL ACTIVITY PROHIBITED**

A. 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.

All Projects using federal funds shall also comply with the following subsection:

B. Certification Regarding Lobbying

The Contractor certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, 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.
2. 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 agency, 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 Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor 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.

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.

XXXI. MISCELLANEOUS PROVISIONS

- A. Severability. Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision.
- B. Remedies Not Exclusive. No provision of this Contract precludes the County from pursuing any other remedies for the Contractor's failure to perform its obligations.
- C. No Third Party Beneficiaries. Except for the parties to whom this Contract is assigned in compliance with the terms of this Contract, there are no third party beneficiaries to this Contract, and this Contract shall not impart any rights enforceable by any person or entity that is not a party thereto.

- D. This Contract shall be governed by and construed to the laws of the State of Washington. Any claim or suit between the parties arising out of this Contract may only be filed and prosecuted in King County Superior Court of U.S. District for the Western District of Washington, in Seattle.

### **XXXII. AFFIRMATIVE MARKETING**

#### **A. Federal Marketing Requirements**

Each Contractor must adopt affirmative marketing procedures and requirements for projects containing five or more housing units funded with CDBG and/or HOME funds. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing. (The affirmative marketing procedures do not apply to families with housing assistance provided by the Public Housing Authority or families with tenant based rental assistance provided with HOME funds.) The County shall annually assess the Contractor's affirmative marketing program to determine the success of affirmative marketing actions and any necessary corrective actions.

#### **B. The affirmative marketing requirements and procedures adopted must include:**

1. Methods for informing the public, owners, and potential tenants about federal fair housing laws and the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups;
2. Requirements and practices the Contractor must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirement (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
3. Procedures to be used by the Contractor to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, language interpreters, places of worship, employment centers, fair housing groups, or housing counseling agencies);
4. Records must be kept describing actions taken by the Contractor to affirmatively market units and records to assess the result of these actions; and
5. A description of how the Contractor shall assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

### **XXXIII. ACCESSIBILITY FOR CAPITAL PROJECTS**

Any buildings or other facilities designed, constructed, or altered with federal funds pursuant to this Contract are subject to the requirements of the Architectural Barriers Act of 1968 (42 USC 4151 - 4157) and shall comply with the Uniform Federal Accessibility Standards (Appendix A to 24 CFR Part 40 for residential structures, and Appendix A to 41 CFR Parts 101-19 and subpart 101-19.6 for general type building). When applicable, certain multi-family housing units designed and constructed for first occupancy after March 13, 1991, with assistance provided under this Contract must comply with the Fair Housing Accessibility Guidelines, 24 CFR Part 100 as amended.

#### XXXIV. LABOR STANDARDS

Agencies receiving a CDBG and/or HOME award shall comply with Subsections A and C below.

##### A. Davis-Bacon Requirements

For projects assisted with CDBG funds, this Subsection shall not apply to construction or rehabilitation of residential property consisting of fewer than eight units. For projects assisted with HOME funds, this Subsection shall not apply to rehabilitation of rental property consisting of fewer than twelve units.

All construction work funded in whole or in part under this Contract must be performed in accordance with the Davis-Bacon Act, as amended (40 USC sections 276(a)-276(a)(5)), the Copeland "Anti-Kickback" Act, as amended (40 USC 276(c)) and the Contract Work Hours and Safety Standards Act (40 USC 327 et seq.) as further prescribed at 29 CFR Parts 1, 3, 5, 6 and 7. The Contractor will follow all Davis Bacon documentation requirements and regularly submit required documentation to the County, shall maintain records sufficient to evidence compliance with this section and shall make such records available for the County's review upon request.

A copy of the current Davis Bacon wages must be included in all construction bid specifications, contracts, and/or subcontracts over \$2,000, except where the project includes a copy of applicable state prevailing wages that are higher than current Davis Bacon wages.

Agencies receiving an award of local funds (HOF, RAHP, HB 2331, Veterans and Human Services Levy or MIDD funds) or federal funds that do not trigger Davis Bacon shall comply with Subsections B and C below:

##### B. Prevailing Wages

Projects that are not subject to Section A above, shall pay State residential prevailing wage rates as a minimum. Projects that are subject to State prevailing wage requirements of chapter 39.12 RCW shall pay prevailing wages at or above the applicable State classification rate.

The Contractor shall provide annual certification to the County of its compliance with the requirements of this Section. The Contractor shall additionally maintain records sufficient to evidence compliance with this section and shall make such records available for the County's review upon request.

##### C. Use of Volunteers

The Contractor shall obtain the written approval of the County prior to allowing any volunteers to perform construction work on a project assisted under this Contract.

#### XXXV. EMPLOYMENT OPPORTUNITIES ON ASSISTED CONSTRUCTION PROJECTS

##### A. Section 3 Requirements

The work to be performed under this Contract may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects

covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

**B. Section 3 Criteria for Capital Projects**

As set forth in the HCD Plan, Section 3 regulations found at 24 CFR § 135.38 apply to all Project/Program Exhibits which meet all three of the following criteria:

1. The Project/Program Exhibit must include \$200,000 or more in total HUD funds from one or more program years;
2. The Project/Program Exhibit must include construction or rehabilitation work as a task that will be funded in full or in part with the HUD funds; and
3. The construction or rehabilitation work that will be funded must have a contract value, which exceeds \$100,000. Actual contract value of construction or rehabilitation work is the determining factor, not a cost estimate.

Additionally, Section 3 regulations are applicable to Project/Program Exhibit(s), which do not initially meet the above criteria but which are amended so as to add funds or change the activities for which the funds are used. Section 3 regulations do not apply to projects that include \$200,000 or more in HUD funds when the funds are being used for acquisition and/or professional services only and not for construction or rehabilitation work.

**XXXVI. NO BENEFIT TO OWNERS AND DEVELOPERS OF ASSISTED HOUSING**

No Contractor, developer or sponsor (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or nonprofit (including a Community Housing Development Organization when acting as an owner, developer or sponsor) may occupy a CDBG, HOME, HOF, RAHP, HB 2331, Veterans and Human Services Levy, MIDD or CX-assisted affordable housing unit in a project. This provision does not apply to an owner-occupant of single family housing or to an employee or agent of the owner or developer of a rental housing project who occupies a CDBG, HOME, HOF, RAHP, HB 2331, Veterans and Human Services Levy or CX-assisted unit as the project manager or maintenance worker.

**XXXVII. SUPPLANTING**

Any federal CDBG or Homeless Housing and Services (2163) Funds made available under this Contract to provide public (human) services shall not be utilized by the Contractor to reduce or replace the local financial support currently being provided to public (human) service programs. Homeless Housing and Services funds cannot be used in the place of existing housing operations or services funds.

**XXXVIII. DRUG FREE WORKPLACE CERTIFICATION AND OTHER FEDERAL REQUIREMENTS**

**A. Drug-Free Workplace Certification**

The Contractor certifies that it is in compliance with the Drug-Free Workplace Act of 1986 (42 USC 701) and regulations set forth at 24 CFR part 24, subpart F.

B. Other Federal Requirements

The absence of mention in this Contract of any other federal requirements that apply to the award and/or expenditure of the federal funds made available by this Contract is not intended to indicate that those federal requirements are not applicable to Contractor activities. The Contractor shall comply with all other federal requirements relating to the expenditure of federal funds, including but not limited to, the Hatch Act (5 USC, Chapter 15) regarding political activities.

**XXXIX. CONSTITUTIONAL PROHIBITION**

In accordance with the First Amendment of the United States Constitution, Article 1, Section 11 of the Washington State Constitution, and separation of church and state principles, as a general rule, funds received under this Contract may not be used for religious activities. Except where otherwise allowed by federal law, the following restrictions and limitations apply to the use of CDBG and HOME funds:

- A. A Contractor may not engage in inherently religious activities, such as worship, religious instruction or proselytization, as part of the assistance funded under this Contract. If the Contractor conducts religious activities, the activities must be offered separately, in time and location, from the assistance funded under this Contract, and participation must be voluntary for the beneficiaries of the assistance;
- B. In performing under this Contract, the Contractor shall not discriminate a program beneficiary or prospective program beneficiary on the basis of religion or religious belief; and
- C. CDBG and HOME funds may be used to rehabilitate or construct facilities and housing owned by primarily religious organizations only to the extent those structures are used for conducting eligible activities consistent with 24 CFR § 570.200, 24 CFR § 92.257, and 24 CFR § 576.23.

**XL. PROMISSORY NOTE, DEED OF TRUST AND COVENANT**

The Contractor agrees that funding provided under this Contract for the acquisition, construction, improvement and/or rehabilitation of real property (Premises) owned by the Contractor is a loan from the County to the Contractor. The Contractor agrees to promptly execute a promissory note, deed of trust and covenant (if applicable), in a format approved by the County, if required in a Project/Program Exhibit. The Contractor agrees that for real property, which is leased by the Contractor and assisted under this Contract, the Contractor shall obtain a covenant from the owner of the real property in a form approved by the County, if required in any Project/Program Exhibit.

**XLI. ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE FOR CAPITAL PROJECTS**

The Contractor shall at all times comply with all applicable federal, state, and local laws, statutes, rules and regulations relating to relocation of those persons and households residing at the Premises prior to occupancy by tenants. The Contractor shall be solely responsible for the cost of all relocation benefits required by law.

Capital Projects using federal funds shall also comply with the following subsection.

A. Local Funds Only - Local Relocation Guidelines

Projects that include or will include only local county funds (HOF-CX, Veterans and Human Services Levy, RAHP, 2331, Mental Health, or HIPDD Developmental

Disabilities Funds) for the acquisition, demolition, and or rehabilitation of property that has existing residential tenants who may be displaced shall provide relocation benefits to all displaced households. Effective October 1, 2005, the benefit amount for each displaced household will be \$2,462 per household; provided that, if the Joint Recommendations Committee (JRC) of the King County Consortium adjusts the benefit amount in accordance with King County Consortium Supplemental Relocation Guidelines based on changes in the consumer price index, the increased benefit amount shall apply. All tenants selected for relocation shall be given formal notification regarding the need to relocate with a minimum of ninety (90) days notice of the date they must relocate, along with information about why they were selected. Consideration of a longer notice period may be required if the tenant demonstrates a special circumstance (for instance, health reasons) which would be alleviated by extending the notice period. A list of all displaced households, including name, unit number, household size, ethnicity, and monthly gross income shall be provided to the King County Relocation Specialist along with documentation of all the payments made to displaced tenants. All relocation costs shall be included in the project development budget.

**B. Federal Acquisition and Relocation Requirements:**

Implementation of any project provided for in this Contract will be undertaken so as to minimize involuntary displacement of persons, businesses, nonprofit organizations, or farms to the greatest extent feasible.

The Contractor shall comply with the following:

1. Any acquisition of real property by the Contractor for any activity assisted under this Contract shall comply with the Uniform Relocation Act and 49 CFR Part 24;
2. Any displacement of persons, businesses, nonprofit organizations, or farms occurring as the result of acquisition of real property assisted under this Contract shall comply with the Uniform Relocation Act, at 24 CFR Part 42 and 49 CFR Part 24 as amended, and the County's Residential Anti-displacement and Relocation Assistance Plan required by federal regulations at 24 CFR § 570.606(c), and adopted by the County Council as part of the HCD Plan. The Contractor shall comply with the Regulations pertaining to costs of relocation and written policies, as specified by the King County Residential Anti-displacement and Relocation Assistance Plan; and
3. When any lower-income dwelling units are demolished or converted to a use other than a lower-income dwelling unit, in connection with an activity assisted under this Contract with federal funds, the units must be replaced on a one-for-one basis. Lower-income dwelling units are defined as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent for existing housing as established by HUD and published annually, pursuant to 24 CFR Part 888. The Contractor must comply with the one-for-one replacement of housing requirements of Section 104(d) of the HCD Act, as amended. The implementing regulations are found at 24 CFR Part 42, and for CDBG funds at 24 CFR § 570.606.

**XLII. PROPERTY MANAGEMENT FOR CAPITAL PROJECTS**

The Contractor shall engage in sound property and program management practices and at all times operate and maintain the Premises in a manner which fully complies with all applicable federal, state, and local laws, statutes, rules and regulations covering health and

safety issues in order to provide decent, safe and sanitary housing, as now in effect or as may be hereafter amended. The Contractor specifically agrees to comply and pay all costs associated with achieving such compliance without any notice of requirement or requirements from the County, and that the County does not waive this section by giving notice of demand for compliance in any instance.

The Contractor shall throughout the term of this Contract, without cost or expense to the County, keep and maintain the Premises and all improvements, landscaping, fixtures and equipment which may now or hereafter exist thereon, in a neat, clean and sanitary condition, and shall, except for reasonable wear and tear, at all times preserve the Premises in good and safe repair.

If, after 30 days notice from the County, the Contractor fails to maintain or repair any part of the Premises or any improvement, landscaping, fixtures or equipment thereon, the County may, but shall not be obligated to, enter upon Premises and perform such maintenance or repair and the Contractor agrees to pay the costs thereof to the County upon receipt of a written demand.

#### **XLIII. TAXES AND LICENSES**

The Contractor shall pay throughout the term of this Contract, all applicable taxes, and all licenses and excise fees covering the ownership and operations of the Premises.

XLIV. PROCEDURE IN THE EVENT OF CASUALTY/CONDEMNATION FOR CAPITAL PROJECTS

- A. In the event that all or any portion of the Premises is taken or conveyed as a result of any condemnation proceeding or damaged as a result of any casualty, the County and the Contractor agree that the proceeds of any condemnation or casualty affecting the Premises shall be made available for the repair or restoration of the real property if the County and the Contractor in their reasonable judgment agree that:
1. Repair or restoration of the real property is feasible and that sufficient funds are available to complete such work;
  2. After the completion of work, the real property can be feasibly operated within the restrictions and requirements of the Project/Program Exhibit; and
  3. More than two years remain after the completion of the work until the end of this Contract.
- B. The County and the Contractor shall meet as necessary to discuss in good faith the rebuilding or repair of the real property and reach a decision with respect thereto within 60 days after the occurrence of the casualty or condemnation. If the parties cannot in good faith agree to repair or restore the real property as provided above, then any proceeds of the casualty or condemnation, within 60 days of demand, shall be paid first to satisfy the County's lien. The balance of the proceeds shall be paid to the Contractor.

IN WITNESS HEREOF, the parties hereto have caused this contract to be executed and instituted on the date above written.

KING COUNTY:

CONTRACTOR:

FOR

King County Executive

Signature

Date

Name (Please type or print)

Date

Approved by DCHS Director

Approved as to Form: December 2011

OFFICE OF THE KING COUNTY  
PROSECUTING ATTORNEY



# Cities Insurance Association of Washington

## CERTIFICATE OF INSURANCE

ISSUE DATE: 09/27/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE MEMORANDUM OF COVERAGE (MOC) BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the MOC must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the MOC, certain coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

INSURED	COVERAGE PROVIDED
CANFIELD 19100 140TH AVENUE NE. WOODINVILLE, WA 98072-6874 PHONE (425) 432-6757 FAX (425) 482-2777	GENERAL LIABILITY CIAW / Munich Re  AUTOMOBILE LIABILITY CIAW / Munich Re
City of Black Diamond P.O. Box 590 Black Diamond, WA 98010	PROPERTY CIAW / Munich Re CIAW / Great American Insurance Company  CRIME / FLOOD EMPLOYER DISTRICT CIAW / Munich Re

THIS IS TO CERTIFY THAT THE COVERAGES LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE MOC DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH MOC. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE	INSURANCE	ISSUE DATE	EXPIRATION DATE	COVERAGE	LIMIT
<b>GENERAL LIABILITY</b>					
COMMERCIAL GENERAL LIABILITY OCCURRENCE FORM INCLUDES STOP GAP	CIAW111234517	09/01/2011	09/01/2012	GENERAL AGGREGATE PRODUCT-COMP/OP AGG PERSONAL & ADV. INJURY EACH OCCURRENCE ANNUAL PROGRAM AGGREGATE	\$20,000,000 \$20,000,000 \$10,000,000 \$10,000,000 \$50,000,000
(LIABILITY IS SUBJECT TO A \$100,000 SIR PAYABLE FROM PROGRAM FUNDS)					
<b>AUTOMOBILE LIABILITY</b>					
ANY AUTO LIABILITY IS SUBJECT TO A \$100,000 SIR PAYABLE FROM PROGRAM FUNDS	CIAW111234517	09/01/2011	09/01/2012	COMBINED SINGLE LIMIT ANNUAL PROGRAM AGGREGATE	\$10,000,000 \$10,000,000
<b>PROPERTY</b>					
	CIAW111234517	09/01/2011	09/01/2012	ALL RISK PER OCC EXCL. EQ & FL EARTHQUAKE PER OCC FLOOD PER OCC ANNUAL PROGRAM AGGREGATE	\$100,000,000 \$15,000,000 \$15,000,000 NONE
(PROPERTY IS SUBJECT TO A \$25,000 SIR PAYABLE FROM PROGRAM FUNDS)					
<b>CRIME / FLOOD EMPLOYER DISTRICT</b>					
	CIAW111234517	09/01/2011	09/01/2012	PER LOSS	\$1,000,000

5th Ave Watermain Replacement project. King County, its officers, officials, employees and agents are notified as Additional Insureds as respects to claims arising out of the negligence of the Named Insured and are subject to coverage terms, conditions and exclusions. Additional Insured endorsement is attached.

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED COVERAGE BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE PROVISIONS OF THE MOC.

ENDORSEMENTS AND NOTES	AUTHORIZED REPRESENTATIVE
<p>Auth: Kathy Tromper, Community Downfall Coordinator King County Dept of Community and Human Services 401 Fifth Avenue, Suite 510 Seattle, WA 98104</p>	

2539101

## ADDITIONAL INSURED ENDORSEMENT

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

### GENERAL LIABILITY COVERAGE PART

#### How Coverage is Changed

It is agreed that the interest of any Additional Insured is recognized as their interests may appear, providing the certificate of insurance that this is attached to has been issued and is on file with the Company.

Other terms:

All other terms of your Memorandum of Coverage remain the same.

**EXHIBIT II  
CITY OF BLACK DIAMOND  
BLACK DIAMOND FIFTH AVENUE WATERMAIN DESIGN (C12226)**

Contract No.: 5427808	Project No.: C12226 - 1111374
King County Project Manager: Eric Jensen	Agency Contact Person: Seth Boettcher
Start Date: March 23, 2012	Telephone: (360) 886-2560 Fax: (360) 886-2592
End Date: May 31, 2013	E-Mail: sboettcher@ci.blackdiamond.wa.us

**I. WORK STATEMENT**

The Agency known as the City of Black Diamond (hereinafter referred to as "the Contractor" agrees to perform all those activities described in this Exhibit beginning on March 23, 2012, and completing on May 31, 2013. All such activities shall be provided in a manner which fully complies with all applicable federal, state and local laws, statutes, rules and regulations, as are now in effect or hereafter may be amended. The total amount of reimbursement pursuant to this Exhibit shall not exceed \$41,000 in King County Development Block Grant (CDBG) funds. The Catalog of Federal Domestic Assistance (CFDA) number for the CDBG Program is 14.218.

**II. PROGRAM DESCRIPTION**

**A. Goal**

Develop and implement stronger prevention measures to avoid or prevent homelessness, and create or preserve supportive housing for those who are homeless or at risk of homelessness to achieve the goal of ending homelessness by improving the living environment in low- and moderate-income neighborhoods/communities in accordance with jurisdictions' adopted Comprehensive Plans and the Countywide Planning Policies.

**B. Outcome**

The community is a healthier and/or safer place to live, and/or has more amenities, including improved water quality and flow. The increase in size will bring this area up to city fire flow standards. Upon completion of this Exhibit, the Contractor will have approved design specifications to complete the construction of a water main along Fifth Avenue in the City of Black Diamond to serve its residents.

**C. Indicators**

Upon completion of the project, the Contractor shall have engineered design documents (plans, specifications, and estimates) that will be used for the eventual construction of infrastructure improvements that include the replacement of 850 lineal feet of four-inch asbestos water main with an eight-inch ductile iron water main, along with two outdated fire hydrants.

D. Program Requirements

The Contractor shall utilize King County CDBG funds for eligible costs related to the design of for the construction of an eight-inch ductile iron water main, along with two outdated fire hydrants along Fifth Avenue starting at Lawson Street past Pacific Street to the south and to the south end of Fifth Avenue in the City of Black Diamond.

1. The Contractor shall obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, County, state, and federal law.
2. The Contractor and the County agree to facilitate the completion of the project.

The scope of the services to be performed under this Contract consists of the items listed in the Community Development Block Grant Application submitted for this funding.

3. Environmental Review

- a. Tier I of an environmental review record (ER) has been completed for the design and specification phase of the project per 24 Code of Federal Regulations (CFR) 58.34(a)(8).
- b. A Tier II environmental record, in accordance with 24 CFR 58.5, shall be completed by King County staff for the full construction phase of this project, before any construction work begins. Any mitigation measures identified in the Tier II ER shall be incorporated into the Contract and shall be included in the construction contract for implementation and completion of this project.

4. Design Project Requirements

- a. The Contractor shall appropriately solicit Request for Proposals, award the contract, and contract for design of the project. In such a contract the Contractor shall assume the rights and responsibilities of owners of the project, except that the County shall provide funds for the improvement generally described in Section III.C.2. of this Exhibit.
- b. In the event not all design plans can be made within the project funds, the Contractor shall determine the priority of the design plans to be made.
- c. Prior to entering into any subcontract under this Exhibit, the Contractor shall forward to the County copies of all contract documents.
- d. The Contractor shall implement the project within the program year and submit both vouchers and required reports to the County in a complete and timely manner.
- e. The Contractor shall provide documentation to the County at project completion showing that the project activities were completed in accordance with this Exhibit and tasks set forth in the application for funds.

- f. The Contractor shall perform all necessary and appropriate community information activities.
- 5. Public Information
  - a. In all news releases and other public notices related to projects funded under this Agreement, the Contractor shall include information identifying the source of funds as the King County Community Development Block Grant Program.
  - b. During construction projects, the Contractor shall erect a durable and adequately visible sign at the construction site, identifying the source of funds, such as: "Funding for this project was provided by King County Community Development Block Grant Program."
  - c. The Contractor shall place a plaque permanently in the highest foot traffic area readily visible to the public. The size should be at a minimum 12" by 12". The plaque should contain the following:

FUNDING FOR FIFTH AVENUE WATER MAIN  
PROVIDED BY  
THE KING COUNTY COMMUNITY DEVELOPMENT  
BLOCK GRANT PROGRAM AND  
CITY OF BLACK DIAMOND  
THROUGH THE U.S. DEPARTMENT  
OF HOUSING AND URBAN DEVELOPMENT  
[DATE]

6. Labor Standards

The work performed by this Contract may also be subject to the State's prevailing wage laws, Chapter 39.12 Revised Code of Washington (RCW). The Contractor is advised to consult with the Washington State Department of Labor and Industries to determine the prevailing wages that must be paid.

7. County Review and Approval of Procurement Documents

- a. The Contractor shall prepare all necessary plans, specifications and bid documents for the project. All specifications and drawings shall be in conformance with current standards and general specifications set forth in the CDBG application for this project.
- b. The Contractor shall submit a draft of the following procurement documents to the County for review and approval at least 15 days prior to preparing the final version and advertising or soliciting responses for any type of good or service including, but not limited to, professional services and construction services:
  - i. Construction bid specifications;
  - ii. Invitation to bid;

- iii. Request for proposals; and
    - iv. Request for qualifications.
  - c. The draft procurement documents shall include provisions required in the contract. The Contractor shall specify the location in the draft procurement document of each of the required provisions.
  - d. The Contractor shall not prepare a final version of any of the above documents and advertise or solicit responses without the written approval of the County.
8. The Contractor shall obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, county, state, and federal law.
- a. The Contractor shall appropriately bid, award the contract, and contract for construction of the project. In such a contract the Contractor shall assume the rights and responsibilities of owners of the project, except that the County shall provide funds for the improvement generally described below.
- To replace four-inch asbestos water main with an eight-inch ductile iron water main, along with two outdated fire hydrants in the City of Black Diamond.
- b. In the event not all improvements can be made within the project funds, the Contractor and the County shall jointly determine the priority of the improvements to be made.
  - c. Prior to entering into any subcontract under this Contract, the Contractor shall forward to the County copies of all Contract documents.
  - d. The Contractor shall designate a person or persons to provide project management during design and coordinate with the assigned Housing and Community Development (HCD) Project Manager.
  - e. The Contractor shall provide documentation to the County at project completion showing that the project activities were completed in accordance with this Contract. The Contractor shall provide the County with one set of final record documents ("As-Built" plans) which are stamped, certified, and signed.

9. Professional Services Procurement

In accordance with Section XX.F. of this Contract, specified in 24 CFR § 85.36(b) through (g), the City will follow an approved professional services procurement standard and will pay a "not to exceed" amount established.

10. Construction Project Requirements To Be Incorporated Into Bid Specifications

- a. The Contractor shall not authorize any work under a construction contract assisted in whole or in part under this Contract to proceed until and unless King County Housing and Community Development Program staff have presented each prime contractor with detailed information regarding compliance with CDBG Program Regulations including, but not limited to, federal labor standards, at a preconstruction conference.
- b. During the course of construction, the Contractor shall facilitate standing weekly construction meetings with the assigned Contractor Representative, the prime contractor, and the assigned King County Project Manager.
- c. The Contractor shall include in construction bid specifications and construction contracts assisted in whole or in part under this Contract, provisions requiring each prime construction contractor to submit a completed King County Final Affidavit of Amounts Paid to the County. The form, to be provided by the County, shall be submitted by the Contractor to the County prior to the Contractor's release of retainage to each prime contractor.
- d. The County shall retain ten percent of the value of funds provided under this Exhibit. The County shall disburse the retained amount upon the County's verification that the Contractor has complied with the provisions of this Contract that are applicable to construction contracts.
- e. The Contractor shall implement the project within the proposed timeline and submit both vouchers and required reports to the County in a complete and timely manner.
- f. Prior to any payment on the project, pre-approval must be received from County staff that federal labor requirements have been met. If the Contractor pays before the County approves, the Contractor shall be responsible for any compliance problems.
- g. Weekly payrolls of construction activity and supporting documents for labor compliance shall be submitted to: King County Housing and Community Development, Attn.: Randy Poplock, 401 Fifth Avenue, Suite 510, Seattle, WA 98104 prior to any payment of CDBG funds. Upon review and approval of said documents, the Contractor shall be advised by the County that payment can be made.
- h. The Contractor shall provide documentation to the County at project completion showing that the project activities were completed in accordance with this Exhibit.

11. Section 3 Requirements

- a. The Contractor shall comply with Section 3 requirements set forth at 24 CFR Part 135. Compliance with Section 3 requirements includes, but is not limited to, incorporating the Section 3 Clause set forth at 24 CFR Part 135.38 and Section 3 Requirements provided by the County into

construction bid specifications, invitations to bid and/or requests for proposals as well as construction contracts with a contract value which exceeds \$100,000.

- b. A copy of the Section 3 report for the Project shall be prepared by the Contractor and submitted to:

King County Housing and Community Development  
Attn: Dave Mecklenburg  
401 Fifth Avenue, Suite 510  
Seattle, WA 98104  
[Dave.Mecklenburg@kingcounty.gov](mailto:Dave.Mecklenburg@kingcounty.gov)

E. Records and Reports

The Contractor shall maintain files for this project containing the following items:

1. Documentation demonstrating the Contractor's determination of eligibility for the project activity and the national objective met per CDBG Program regulations;
2. Notice of Grant Award;
3. Motions, resolutions, or minutes documenting Board or Council actions;
4. A copy of this Exhibit and the County's notice to proceed on this project;
5. Correspondence regarding budget revision requests;
6. Copies of all invoices and reports submitted to the County for this project;
7. Bills for payment;
8. Copies of approved invoices and warrants;
9. Payroll time sheets for actual salary and fringe benefit costs, time sheets signed by a supervisor and annotated to document percent of time charged against this project if less than full time;
10. Documentation, such as log sheets, of copy machine use, postage, telephone use, and office supplies when these costs are shared with other programs and no invoice is available, or alternative, annotated invoices may be used to document charges as appropriate;
11. Documentation of mileage charges for private auto use;
12. Documentation of the solicitation process used to select vendors and subcontractors with original purchase orders and subcontracts;
13. Documentation related to adherence to labor compliance rules and regulations and report submittal related to such;
14. The Contractor shall submit project status information on a Program Accomplishment form; and/or
15. The Contractor shall submit detailed project funding information at the completion of the project on a Completed Project Funding Report form.

### III. COMPENSATION AND METHOD OF PAYMENT

#### A. Billing Invoice Requirements

1. The Contractor shall submit invoices to the County within ten business days after the end of each quarter in which the Contractor incurs costs reimbursed under this Exhibit.
2. The Contractor shall submit invoices to the County in the form of a 2012 CDBG Program Voucher Reimbursement Request form. Such forms shall be signed by an authorized representative of the Contractor and shall be accompanied by copies of supporting documents.
3. The County shall retain ten percent of the value of funds provided under this project Exhibit until all design activities are completed. The County shall disburse the retained amount with the final invoice upon the County's verification that the Contractor has complied with the provisions of this Exhibit.

#### B. Method of Payment

The Contractor shall be reimbursed for satisfactory completion of the requirements specified in this Exhibit in a sum not to exceed \$41,000.

#### C. The Contractor shall apply the following CDBG funds to the project in accordance with the Line Item Budget Summary below.

##### 1. CDBG Funds

King County Community Development Block Grant – Funds; South Sub-Region	\$41,000
Total CDBG Funds: CFDA 14.218	\$41,000

##### 2. Line Item Budget

Item	CDBG Funds	Other Matching Funds	Total Funds
*Environmental Review (King County Set-aside)	\$ 4,000	\$	\$ 4,000
Architect and Engineering Design	\$37,000	\$	\$37,000
Project Management	\$ 0	\$	\$ 0
Sub-Total* (Less Environmental Review Cost)	\$37,000	\$	\$37,000
Total Project Budget:	\$41,000	\$	\$41,000

\*Environmental Review (King County Cost Set-aside): This amount is set-aside until final environmental review costs are determined. Any balance remaining shall be available for expenditure by Budget Revision Request from the Contractor, not to exceed total CDBG funds of \$41,000.

D. Project Milestones

1. Proof of meeting accomplishments or milestones shall be submitted with each voucher for reimbursement. Milestones may be amended from time to time with the prior approval of the County through a Contract amendment.
2. The Contractor shall implement the project in accordance with the following schedule.

Milestones	Projected Completion Date
Environmental Review Complete – Tier I	March 22, 2012
Procure Design/Engineering	July 2012
Design Complete, Bid Specs Submitted for County Review	November 2012
Closing Documentation Submitted for Design	December 2012

IV. **REPORTING REQUIREMENTS**

- A. The Contractor shall submit a Program Accomplishment form in a format provided by the County within ten business days after the end of each quarter.
- B. The Contractor shall submit a Completed Project Funding Report form in a format provided by the County with the final invoice.

# 5TH AVENUE WATERMAIN REPLACEMENT CITY OF BLACK DIAMOND

## BENEFITTING PARCELS



## **FIFTH AVENUE WATER MAIN REPLACEMENT ANTICIPATED SCHEDULE**

*July/August 2012	Engineer Selection
August 2012	Engineer Contract
November/December 2012	Grant amendment for construction money
December 2012/January 2013	Project out to Bid
February/March 2013	Construction Contract Award
July – September 2013	Project Construction

\* King County CDBG does not allow engineers under contract with the City to perform the engineering or to participate in the engineer selection process. The City will have to go through the selection process for an engineer to work specifically on this project.

## Capital Improvement Plan 2013 - 2018

**Project for the** **Water Department** **# W3**

**PROJECT TITLE** **5th Ave Water Main Replacement**

**DESCRIPTION**

Replace 850 feet of 4 inch dead end asbestos concrete water main from 5th Ave intersection with Lawson St. South to the end of the road. Two fire hydrants also need to be replaced.

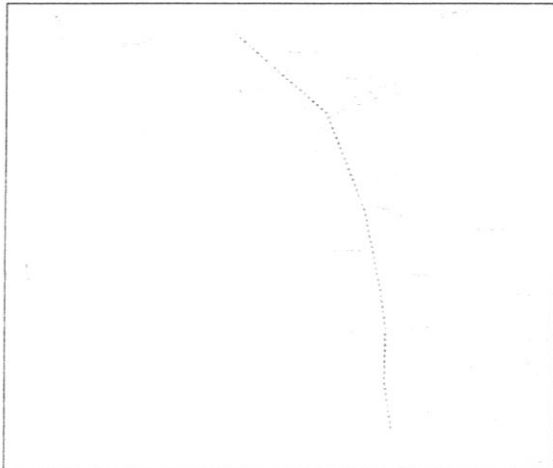
**BACKGROUND**

There is a lack of fire flow in this area and with low quality water pipe on a dead end line the service reliability is also very low. The City was selected for a CDBG Grant for this project in 2011. The grant agreement is expected in May or June of 2012. The City is trying to expedite the project so as to complete the construction while Lawson Creek is dried up.

**COMMENTS**

This project might be delayed to 2013 if it cannot be completed while Lawson Creek is dry in the summer of 2012 and is also shown in the 2013 budget year.

	Total \$ Requested 2013-2018	Capital Plan 2013 - 2018					
		2013	2014	2015	2016	2017	2018
<b>CAPITAL PROJECT COSTS</b>							
Construction Engineering	15,000	15,000					
Construction Costs	160,000	160,000					
<b>TOTAL COSTS</b>	<b>175,000</b>	<b>175,000</b>	-	-	-	-	-
<b>REQUESTED FUNDING</b>							
Grants	160,000	160,000					
REET II	15,000	15,000					
<b>TOTAL SOURCES</b>	<b>175,000</b>	<b>175,000</b>	-	-	-	-	-



Fire Hydrant on Fifth Ave.

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>Resolution No. 12-822, authorizing a Professional Service Agreement with Parametrix, Inc. for Rock Creek Bridge Engineering Study</b>	<b>Agenda Date: July 9, 2012</b>	
	<b>AB12-055</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Pete Butkus	
	City Attorney – Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	<b>X</b>
Cost Impact: \$20,403.75	Police – Jamey Kiblinger	
Fund Source: Grant matching	Court – Stephanie Metcalf	
Timeline: June - August 2012	Comm. Dev. – Steve Pilcher	
<b>Attachments: Resolution No. 12-822, Agreement with Parametrix, 2012-2017 CIP Page</b>		
<b>SUMMARY STATEMENT:</b> <p>The Rock Creek Bridge on Roberts Drive is 97 years old, too narrow, does not include pedestrian facilities and does not have approach guard rails. Although the City has had the bridge inspected and found the bridge to be sufficient structurally, the prescriptive inspection and analysis method does not provide the City with the information needed for widening the bridge or provide the City with longevity analysis.</p> <p>The City needs to determine the long term viability of the structure and if the bridge deck could be widened to meet road standards and provide for pedestrian crossing. Once this preliminary engineering is complete a project budget could be established and the City could begin to search for grant funding to rehabilitate the bridge or replace it as recommended by the study.</p> <p><b>BUDGET</b> This study has been identified in the City's 2012-2017 Capital Improvement Plan and \$20,000 was budgeted in 2012 for this engineering work. An additional \$403.75 may need to be appropriated with a budget amendment if the full contract amount is needed to complete the bridge evaluation.</p> <p><b>LEVARAGING PRIVATE FUNDS</b> The Villages Master Planned Development has an obligation to provide a pedestrian connection to the existing part of Black Diamond down Roberts Drive. The City has an obligation to pursue grant funding. The City can use private funds from the Villages developer to match grant funds for the bridge widening and pedestrian facility across Rock Creek.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-822, authorizing the Mayor to execute a Professional Services Agreement with Parametrix for the Rock Creek Bridge Engineering Study for an amount of \$20,403.75.</b>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
July 9, 2012		

**RESOLUTION NO. 12-822**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
EXECUTING A PROFESSIONAL SERVICES AGREEMENT  
WITH PARAMETRIX FOR AN ENGINEERING STUDY OF  
THE ROCK CREEK BRIDGE**

**WHEREAS,** The existing bridge is 97 years old, is too narrow, does not provide for pedestrians and does not provide barriers to protect the stream; and

**WHEREAS,** Parametrix has been selected as the street and traffic engineer for the City of Black Diamond; and

**WHEREAS,** The City has budgeted \$20,000 for this study in the 2012 budget in keeping the adopted Capital Improvement Planning; and

**WHEREAS,** This study will provide information and guidance to submit a detailed, accurate grant application to upgrade or replace the existing bridge;

**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 attached hereto as Exhibit A with Parametrix for the Rock Creek Bridge Engineering Study in the amount of \$20,403.75.

**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

## **CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated \_\_\_\_\_, 20\_\_ and is entered into by and between

CITY OF BLACK DIAMOND, WASHINGTON (the "City")

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: \_\_\_\_\_ Phone: 360-886-2560 Fax : 360-886-2592

and

Parametrix ("Consultant")

1019 39<sup>th</sup> Avenue SE, Suite 100

Puyallup, WA 98374

Contact: Dan McReynolds Phone: 253-604-6600 Fax: 253-604-6799

Tax Id No.: \_\_\_\_\_

for professional services in connection with the following project:

Rock Creek Bridge Evaluation

### **TERMS AND CONDITIONS**

#### **1. Services by Consultant**

1.1 Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by Consultant shall not exceed the Scope of Work nor shall the Consultant be entitled to a greater amount of compensation as that provided in this Agreement without the prior written authorization of the City.

1.2 The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to this Agreement.

1.3 Consultant represents and warrants that it, its staff to be assigned to the Project, and its subconsultants and their staff have the requisite training, skill, and experience necessary to provide the services required by this Agreement and are appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant and its subconsultants under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

## **2. Schedule of Work**

2.1 Consultant shall perform the services described in the Scope of Work in accordance with the Schedule as described in Exhibit "A."

2.2 Consultant will work within the project schedule, will proceed with the work and shall assure that it, and its subconsultants, will have adequate staffing at all times in order to complete the Scope of Work in a timely manner. If factors beyond Consultant's control that could not have been reasonably foreseen as of the date of this Agreement cause delay, then the parties will negotiate in good faith to determine whether an extension is appropriate. The Consultant shall provide the City with written notice of any delay, or potential delay, that may trigger the need for a time extension within 3 business days after the Consultant becomes aware of the delay or potential delay.

2.3 Consultant is authorized to proceed with services upon \_\_\_\_\_.

## **3. Compensation**

TIME AND MATERIALS NOT TO EXCEED. Compensation for the services provided in the Scope of Work shall not exceed \$20,403.75 without the written authorization of the City and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit "C."

## **4. Payment**

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

4.2 All invoices shall be paid by City warrant within sixty (60) days of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

4.3 Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Consultant shall make copies available to the City on request.

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

## **5. Discrimination and Compliance with Laws**

5.1 Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

5.2 Consultant and its subconsultants shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

5.3 Any violation of this Section 5 shall be a material breach of this Agreement and grounds for immediate cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in Consultant's ineligibility to conduct further work for the City.

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

6.1 The City reserves the right to terminate or suspend this Agreement at any time, without cause, by giving Consultant notice in writing ten (10) days prior to the termination or suspension date. In the event of termination, all finished or unfinished reports, or other material prepared by Consultant pursuant to this Agreement, shall be submitted to the City. In the event the City terminates this Agreement prior to completion without cause, Consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to compensation for any satisfactory work completed on the Project prior to the date of suspension or termination.

6.2 Any notice from the City to Consultant regarding the suspension of this Agreement shall specify the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Consultant's reasonable expenses and shall be subject to verification. Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

## **7. Standard of Care**

7.1 Consultant represents and warrants that it has the requisite training, skill, and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services Consultant provides under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances. Consultant understands and agrees that the services rendered pursuant to this Agreement are for the sole exclusive benefit of the City and that no third party shall have authority to authorize, approve, direct or control any of the services rendered to the City pursuant to this Agreement.

## **8. Ownership of Work Product**

8.1 Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall be vested in the City and shall be submitted to the City upon termination of this Agreement. Any reuse of these materials by the City for projects or purposes other than those that fall within the scope of this Agreement and the Project to which it relates, without written concurrence by Consultant, will be at the sole risk of the City.

8.2 The City acknowledges Consultant's documents as instruments of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the work. The City agrees to hold harmless and indemnify Consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of the City's reuse of such documents beyond the use for which they were originally intended without the written authorization of Consultant.

8.3 Methodology, software, logic, and systems developed under this Agreement are the property of Consultant and the City, and may be used as either Consultant or the City see fit, including the right to revise or publish the same without limitation.

## **9. Indemnification/Hold Harmless**

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees (collectively "liabilities"), arising directly or indirectly out of or resulting from the willful or negligent acts, errors, or omissions of Consultant or its subconsultants in performance of this Agreement except to the extent such Liabilities are caused by or result from the concurrent negligence of the City.

## **10. Insurance**

10.1 Consultant shall procure and maintain for the duration of the Agreement, and shall provide proof satisfactory to the City that such insurance is procured and maintained by each of its subconsultants, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees.

10.2 Consultant shall procure and maintain the following types and amounts of insurance:

a. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. This insurance shall have a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall

cover liability arising from premises, operations, independent contractors, personal injury, and advertising injury. This insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

d. Professional Liability insurance appropriate to Consultant's profession, with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

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

a. Consultant's insurance coverage shall be primary insurance vis-à-vis the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess over Consultant's insurance and shall not contribute with it.

b. Consultant's insurance shall be endorsed to state that coverage shall not be cancelled, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

10.4 The City shall be named as an additional insured under Consultant's Automobile Liability and Commercial General Liability insurance policies with respect to the work to be performed for the City pursuant to this Agreement.

10.5 Insurance shall be placed with insurers with a current A.M. Best rating of not less than A:VII.

10.6 Declaration pages issued by the insurance carriers for the policies mentioned in this Section 10 showing such insurance to be in force shall be filed with the City not less than ten (10) days following both parties signing this Agreement and before commencement of the work. In addition, the City may request, in writing, a full copy from Consultant of any insurance policy Consultant must procure and maintain pursuant to this Agreement and Consultant must provide such copy to the City within ten (10) days of Consultant's receipt of the City's request. Any policy or required insurance written on a claims-made basis shall provide coverage as to all claims arising out of the services performed under this Agreement and for three (3) years following completion of the services to be performed. It shall be a material breach of this Agreement for Consultant to fail to procure and maintain the insurance required by this Section 10 or to provide the proof of such insurance to the City as provided for in this Agreement.

## **11. Assigning or Subcontracting**

11.1 Consultant shall not assign, transfer, subcontract, or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld at the sole discretion of the City.

**12. Independent Contractor**

12.1 Consultant and its subconsultants are, and shall be at all times during the term of this Agreement, independent contractors.

**13. Notice**

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

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

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

Consultant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: \_\_\_\_\_

**14. Disputes**

14.1 Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in King County Superior Court, Kent, Washington.

**15. Attorney Fees**

15.1 In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party.

**16. General Administration and Management on Behalf of the City**

16.1 The City Administrator for the City, or his designee, shall review and approve Consultant's invoices to the City under this Agreement and shall have primary responsibility for overseeing and approving work or services to be performed by Consultant. Consultant understands and agrees that any and all work to be performed pursuant to this Agreement must be approved in advance by the contract Administrator. No third party, including the project applicant, shall have any direct control or influence over the services performed under this Contract.

**17. Extent of Agreement/Modification**

17.1 This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

**18. Conflict of Interest; Non-Collusion**

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The Consultant further covenants that, in performance of this Contract, no person having any such interest shall be employed by the Consultant. The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the project applicant or any affiliate or agent of the project applicant.

18.2 The Contractor warrants and represents that the Contractor has not, nor has any other member, employee, representative, agent or officer of the Contractor, entered into or offered to enter into any combination, collusion or agreement with any person or entity to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of this Contract other than the consideration offered pursuant to the terms and conditions hereof.

CITY OF BLACK DIAMOND

CONSULTANT

By: \_\_\_\_\_

Rebecca Olness

Its: Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Daniel L. McReynolds

Its: Principal

Date: \_\_\_\_\_

Attest:

By:

\_\_\_\_\_  
Brenda L. Martinez

City Clerk

## EXHIBIT A - SCOPE OF WORK

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### City of Black Diamond Rock Creek Bridge Evaluation – Bridge No. 1018B

#### PHASE 1 – BRIDGE EVALUATION

##### Task 1 – Project Management and Support

###### *Measurable Task Objectives*

Parametrix (Consultant) will monitor the progress of the work tasks, staff work loads, and milestones/deliverables with the project schedule, and will make adjustments as necessary to keep the project on track. Consultant will work closely with the City of Black Diamond staff and provide project management to ensure that the proper level of effort is being applied to the project tasks.

###### *Assumptions*

The task assumptions include:

- The project will be completed within 3 months of the notice to proceed.

###### *Deliverables*

The deliverables will include:

- Meeting Notes (as applicable).
- Project Invoices and Status Reports.

##### Task 2 – On-Site Condition Evaluation

###### *Measurable Task Objectives*

Parametrix will conduct a site visit in order to evaluate the current condition of the bridge. Results of the visual inspection will be provided in a technical memorandum.

###### *Approach*

The approach to the on-site condition evaluation will include the following:

- Obtain and review all available documentation on the bridge.
- Obtain and review previous inspection reports.
- Site visit to evaluate the existing condition of bridge.

### *Assumptions*

The task assumptions include:

- Site visit will be limited to 4 hours on site.
- Site visit will be performed by two Parametrix employees.
- A representative of the City of Black Diamond Public Works Department will be on site during the site visit.
- All observations will be performed visually from the deck and creek below. No special equipment (man lifts, etc.) will be used.

### *Deliverables*

The deliverables will include:

- A technical memorandum summarizing the site visit.

## **Task 3 – Perform a Structural Evaluation of the Existing Bridge**

### *Measurable Task Objectives*

The purpose of the structural evaluation is to assess the load-carrying capacity of the bridge. Parametrix will perform a structural analysis, based on the record drawings and visual inspection, to measure the bridge capacity for various loading conditions. The results will be summarized in a load capacity report.

### *Approach*

The approach to performing structural evaluation will include the following:

- Perform an analysis similar to a load rating analysis incorporating the condition of the structure observed during the site visit to determine a reasonable load capacity.
- If load restrictions are required, prepare a bridge load rating report summary.

### *Assumptions*

The following assumptions apply to determining the load capacity:

- Load capacity determination will be in accordance with WSDOT's *Bridge Design Manual* Chapter 13 and *The Manual for Bridge Evaluation*, 1st Edition with 2010 Interim Revisions.
- Only the superstructure will be rated in accordance with WSDOT.
- If load restrictions are required, rating trucks will be limited to legal truck loads (Type 3, Type 3S2, Type 3-3). Rating vehicles are defined in WSDOT's *Bridge Design Manual* Section 13.1.5.
- Resistance factors will be reduced based on the bridge condition described in the latest inspection reports and the existing conditions observed during the site visit.
- The results of this load capacity determination will set the basis for further recommendations.

### *Deliverables*

The deliverables will include:

- Load capacity report and summary.
- Structural calculations.

## **Task 4 – Investigate Rehabilitating/Widening/Replacing the Existing Structure**

### *Measurable Task Objectives*

Parametrix will investigate alternatives for rehabilitating, widening, and replacing the existing bridge. The study will also examine the feasibility of adding a sidewalk to the bridge. Results will be summarized in a technical memorandum, including conceptual drawings, permitting requirements, and an opinion of construction cost.

### *Approach*

The approach to rehabilitating/widening/replacing the existing structure will include the following:

- The results of Task 3 will set the direction for the most cost effective solution (i.e., rehabilitate, widen, or replace).
- Identify up to three alternatives that will provide for a 28-foot roadway and a minimum of a 6-foot-wide sidewalk on one side of the roadway.
- Prepare conceptual drawings for each alternative.
- For each alternative, identify permitting issues and requirements.
- Prepare an estimate of life expectancy for each alternative.
- Develop a design, permitting requirements, and opinion of probable construction cost estimate for each of the alternatives.

### *Assumptions*

The following assumptions apply to rehabilitating/widening/replacing the existing structure:

- For a replacement alternative, a cursory hydraulic analysis will be performed to determine if the span length needs to be increased.
- For the rehabilitation/widening alternative, foundation capacities will be based on conservative values of the existing soil conditions. No geotechnical investigation will be performed at this time.

### *Deliverables*

The deliverables will include:

- Conceptual drawing of each alternative.
- Permitting requirements for each alternative.
- Opinion of design and construction costs for each alternative.
- Technical memorandum with recommendations, including life expectancy of each alternative.

## Task 5 – QA/QC

### *Measurable Task Objectives*

Comply with all applicable QA/QC Standards and Procedures.

### *Approach*

Quality is a critical element to the reliability and success of the planning and design effort. Our goal under this task is to ensure that we commit to quality, and through a systematic utilization of checks and balances, deliver a project that is fully in conformance with both the standards of our profession and expectations of the Client.

Utilizing the standards and procedures established by Parametrix as a base, we will internally develop an appropriate plan for quality, to ensure proper documentation of process design, peer and senior staff review, and other factors, as appropriate.

Client: City of Black Diamond  
Project: Rock Cr Bridge Eval

Exhibit B

Burdened Rates:		Description	Labor Dollars	Labor Hours	Division Manager	Sr Engineer	Designer III	Engineer IV	Word Processing Specialist	Sr Planner	Division Manager	Project Controls Specialist	Corp Finance Project Accountant	Project Coordination Supervisor
Phase	Task				Austin Fisher	Joseph R. Merth	Alvin R. Valencia	Shane L. Brown	Linda K. Edwards	Michael S. Phelps	Robert Murray	Daria Wright	Corp Finance Project Accountant	Christy Pope
01	Bridge Evaluation		\$20,132.00	128	2	52	24	20	4	6	12	2	2	
01	Project Management		\$2,212.00	14	2	8							2	4
01	On-Site Evaluation		\$2,180.00	12		12							2	2
01	Determine Load Capacity		\$4,140.00	28		8		20						
01	Alternative Studies		\$9,220.00	62		24	24		4	6	12	2		2
01	QA/QC		\$2,400.00	12										
	Reimbursable Expenses		\$0.00	0										
Labor Totals:			\$20,132.00	128	2	52	24	20	4	6	12	2	2	4
					\$400.00	\$9,360.00	\$3,240.00	\$2,700.00	\$360.00	\$900.00	\$2,400.00	\$200.00	\$172.00	\$400.00

DIRECT EXPENSES:

Description	Amount
B & W 8.5 x 11	130.13
B & W 11 x 17	52.26
Mileage	89.36
Expense Total:	271.75
Project Total:	\$20,403.75



## Capital Improvement Plan 2012 - 2017

Project for the

**Street Department**

# T4

### PROJECT TITLE

**Rock Creek Bridge Rehab / Replace**

#### DESCRIPTION

Rock Creek Bridge is on Roberts Road west of Morganville. Although the bridge is old the structure appears to be in good condition. Additional structural analysis is needed to determine if the bridge could be rated for truck traffic. Predesign work is needed to determine how the deck surface could be changed for additional width for vehicular and pedestrian traffic.

#### COMMENTS

This preliminary work will allow the City to position itself for grant opportunities and align city efforts and needs with developer mitigation projects.

		Capital Plan 2012 - 2017						
CAPITAL PROJECT COSTS	Budgeted & Funded 2011	Total \$ Requested 2012-2017	2012	2013	2014	2015	2016	2017
Preliminary Engineering		20,000	20,000					
<b>TOTAL COSTS</b>	<b>-</b>	<b>20,000</b>	<b>20,000</b>					
REQUESTED FUNDING	Budgeted & Funded 2011	Total \$ Requested 2012-2017	2012	2013	2014	2015	2016	2017
Other (Grant Matching)		20,000	20,000					
<b>TOTAL SOURCES</b>	<b>-</b>	<b>20,000</b>	<b>20,000</b>					

