



CITY OF BLACK DIAMOND
January 3, 2013 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:

- 1.) **AB13-001** – Appointment of Mayor Pro-Tem
- 2.) **AB13-002** – Confirmation of Council Standing Committees

UNFINISHED BUSINESS:

NEW BUSINESS:

- | | |
|---|--------------|
| 3.) AB13-003 – Resolution Authorizing Agreement for Water Quality Testing | Mr. Nix |
| 4.) AB13-004 – Resolution Accepting Grant for Annual Recycling Event | Mr. Nix |
| 5.) AB13-005 – Resolution Authorizing MOU with Olympic Environmental | Mr. Nix |
| 6.) AB13-006 – Resolution Authorizing Agreement for Public Defender Services | Mayor Olness |
| 7.) AB12-007 – Resolution Surplus K-9 Sabre | Mayor Olness |

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 8.) **Claim Checks** – January 3, 2013 No. 39140, 39143 through 39184 (voided checks 39148, 39149, 39152) in the amount of \$110,078.25
- 9.) **Minutes** – Council Meeting of December 20, 2012

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: January 3, 2013	AB13-001
Appointment of Mayor Pro Tempore	Department/Committee/Individual	
	Mayor Rebecca Olness	X
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
Cost Impact:	Police – Jamey Kiblinger	
Fund Source:	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Steve Pilcher	
Attachments:		
<p>SUMMARY STATEMENT:</p> <p>Annually at the first meeting of a new Council, the members thereof, by majority vote, shall designate one of their members as Mayor Pro Tempore for such period as the Council may specify. The Mayor Pro Tempore shall serve in the absence or temporary disability of the Mayor.</p>		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to appoint Councilmember ? as Mayor Pro Tempore.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
January 3, 2013		

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION								
SUBJECT:	Agenda Date: January 3, 2013	AB13-002						
Confirmation of Council Standing Committee Appointments	Department/Committee/Individual							
	Mayor Rebecca Olness	X						
	City Administrator –							
	City Attorney –Chris Bacha							
	City Clerk – Brenda L. Martinez							
	Finance – May Miller							
	Public Works – Seth Boettcher							
	Economic Devel. – Andy Williamson							
Cost Impact:	Police – Jamey Kiblinger							
Fund Source:	Court – Stephanie Metcalf							
Timeline:	Comm. Dev. – Steve Pilcher							
Attachments:								
<p>SUMMARY STATEMENT:</p> <p>Annually at the first meeting in January, the City Council shall vote on whether to confirm the Mayor’s appointments to the Council Standing Committees. The purpose of the committees is to provide recommendations on major policy items to the City Council. Issues are forwarded by the Mayor to the appropriate committee for discussion. Membership of any given committee may include no more than two (2) Councilmembers, with one (1) Councilmember serving as the Chair. Committee appointments are for one-year terms.</p> <p>Below is a list of the Mayor’s recommended committees members:</p> <table border="0"> <tr> <td>Budget, Finance, Administration Committee Councilmembers: Chair, Carol Benson ; Joe May</td> <td>Cemetery and Parks Committee Councilmembers: Chair, Joe May; Tamie Deady</td> </tr> <tr> <td>Planning and Community Service Committee Councilmembers: Chair, Craig Goodwin; Carol Benson</td> <td>Public Works Committee Councilmembers: Chair, Ron Taylor; Craig Goodwin</td> </tr> <tr> <td colspan="2">Public Safety Committee Councilmembers: Chair, Tamie Deady; Ron Taylor</td> </tr> </table>			Budget, Finance, Administration Committee Councilmembers: Chair, Carol Benson ; Joe May	Cemetery and Parks Committee Councilmembers: Chair, Joe May; Tamie Deady	Planning and Community Service Committee Councilmembers: Chair, Craig Goodwin; Carol Benson	Public Works Committee Councilmembers: Chair, Ron Taylor; Craig Goodwin	Public Safety Committee Councilmembers: Chair, Tamie Deady; Ron Taylor	
Budget, Finance, Administration Committee Councilmembers: Chair, Carol Benson ; Joe May	Cemetery and Parks Committee Councilmembers: Chair, Joe May; Tamie Deady							
Planning and Community Service Committee Councilmembers: Chair, Craig Goodwin; Carol Benson	Public Works Committee Councilmembers: Chair, Ron Taylor; Craig Goodwin							
Public Safety Committee Councilmembers: Chair, Tamie Deady; Ron Taylor								
COMMITTEE REVIEW AND RECOMMENDATION:								
<p>RECOMMENDED ACTION: MOTION to confirm the 2013 appointments to the Council’s Standing Committees.</p>								
RECORD OF COUNCIL ACTION								
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>						
January 3, 2013								

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-847, authorizing the Mayor to execute a Technical Services Agreement with King County Department of Natural Resources and Parks, Water and Land Resources Division	Agenda Date: January 3, 2013	
	AB13-003	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	X
	Economic Devel. – Andy Williamson	
Cost Impact: \$17,943	Police – Jamey Kiblinger	
Fund Source: Stormwater Utility	Court – Stephanie Metcalf	
Timeline: 2013/14 fiscal years	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 847, Exhibit A (Scope of Work and cost estimate for the state services)		
SUMMARY STATEMENT: <p>The City has identified the need for continued water monitoring services with the King County Department of Natural Resources and Parks, Water and Land Resources Division (WLRD).</p> <p>WLRD has supplied volunteer training and lab services to the City since 2006. Several water quality parameters including total settleable solids (TSS), phosphorous, pH, temperature, etc. are sampled on an annual basis. Results are recorded by WLRD and a report generated annually by King County and City staff.</p>		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-847, authorizing the Mayor to execute a Technical Services Agreement with the King County Department of Natural Resources and Parks, Water and Land Resources Division for continued water quality monitoring, lab services and volunteer training.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
January 3, 2013		

RESOLUTION NO. 13-847

**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 THE KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS,
WATER AND LAND RESOURCES DIVISION FOR
CONTINUED WATER QUALITY MONITORING, LAB
SERVICES AND VOLUNTEER TRAINING**

WHEREAS, the City has identified the need for continued water quality monitoring, lab services and volunteer training with the King County Department of Natural Resources and Parks, Water and Land Resources Division (WLRD);

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 service's agreement with the King County Department of Natural Resources and Parks, Water and Land Resources Division (WLRD) for the fiscal years 2013/14 for services outlined in Exhibit A, scope of work/estimated costs per year, in an amount not to exceed \$17,943.00 for both 2013 and 2014 combined.

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

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

Exhibit A

Scope of Work 2013 - 2014
City of Black Diamond Lake Sawyer water quality support services

The King County Water and Land Resources Division will provide services through the Lake Stewardship Program (KC-LSP) to the City of Black Diamond via this scope under Black Diamond Resolution 12-818 for monitoring water quality on a seasonal basis in Lake Sawyer and for measuring inlet streams water quality each year from January through May and November – December in years 2013 and 2014.

Monitoring will include assuring the quality of the compiled data and providing pertinent information and analyses, reporting back to the city and citizen volunteers in a timely fashion and in a manner agreed upon by both parties, and providing some technical assistance to the city and the public on questions concerning water quality results or problems.

Seasonal monitoring program:

Lake sampling will occur monthly from May through October for a total of six events each year (2013-2014). Sampling locations have been previously identified by King County, city staff and volunteers. For four of these events, parameters will include Secchi transparency, temperature, total phosphorus, total nitrogen, chlorophyll-a, and pheophytin at 1m depth. For the remaining two events (May and August): Secchi + 3 depths (1m, middle and 1m from bottom) ---temperature, total phosphorus, orthophosphate, total nitrogen, ammonia, chlorophyll-a and pheophytin, total alkalinity, and water color as measured by UV254.

Base-flow stream sampling will occur monthly from January to May, then resume in November - December for a total of 7 events each year. Parameters measured will include conductivity, total alkalinity, total suspended solids, total phosphorus, orthophosphate, temperature and a flow estimate.

Two storm events each year will be sampled by city staff at 5 - 8 stations along the inlets if precipitation conditions are met (1-inch in a 24-hour period). The same parameters will be measured as for the routine events, with the addition of an oil-and-grease measurement at the stations just above the two inflows to the lake, as well as at the lake outlet.

KC-LSP will train designated citizen volunteers and/or city staff in the correct methods of data collection for water sample collection and storage, measurements of surface water temperature and Secchi transparency, and for observations on particles in the water, goose abundance, and gathering pertinent information on lake use.

The program will provide proper sampling equipment and will be responsible for repair or replacement if necessary. The program will also provide all sample bottles and will pick up filled bottles from the lake at a designated site to deliver to the KC Environmental Labs for analysis. Either samples will be delivered to county personnel living in Maple Valley, or KC staff will meet a volunteer or city staff at a half-way point for delivery to the King Street Center on the day after collection. County staff will then deliver the samples to the King County Environmental Labs within the timeframes required to meet testing protocols.

Database management, analysis, quality assurance, and reporting:

The program will enter all collected data from monitors and parameters measured by the King County Environmental Laboratory into a database to be made available to the city at the end of each year,

analyze all data for consistency and general water quality conditions, pursue explanations for anomalies, look for trends or indicators of change in the parameters over time, and make management suggestions to the city and citizen volunteers based upon the collected information.

A compilation of the data as part of the program's annual report will be delivered to city staff and cooperating citizen volunteers within a reasonable timeframe after the end of each year, as well as e-files of the data in excel format. A presentation to the city council or appropriate staff may be made if requested, with time for discussion of pertinent issues.

Budget:

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

Black Diamond - Lake Sawyer	2013	2014
Seasonal monthly Lake WQ monitoring	\$ 3,424	\$ 3,664
Seasonal monthly inlet WQ monitoring	\$ 3,237	\$ 3,463
Annual monitoring	\$ 500	\$ 525
Routine monitoring subtotal	\$ 7,161	\$ 7,652

2 inlet storm samples, city staff	\$ 1,512	\$ 1,618
Agreement total	\$ 8,673	\$ 9,270

Seasonal and annual routine water quality monitoring will be billed on a flat rate basis, to be paid annually by Black Diamond upon receipt of an invoice from King County in the fourth quarter of 2013 and 2014. Billing for monitoring for two storm events will also occur annually, but will be based on an accounting of costs incurred, as storm events are not predictable and rainfall criteria might not be met.

Further technical assistance not related directly to the mechanics of the monitoring effort will be billable by the hour, to be paid annually by the city upon receipt of a detailed accounting from KC Water and Land Resources, but shall not exceed \$1000 per year unless specifically agreed upon by both parties in writing, including signatures and date.

Authorized by:

Rebecca Olness, Mayor, City of Black Diamond

Date

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-848, authorizing the Mayor to execute a grant agreement with the Seattle-King County Department of Health	Agenda Date: January 3, 2013	
	AB13-004	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	X
	Economic Devel. – Andy Williamson	
Cost Impact: 5,925.81	Police – Jamey Kiblinger	
Fund Source: Grant (LHWMP)	Court – Stephanie Metcalf	
Timeline: Spring 2013	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 13-848, Exhibit A (Grant Agreement)		
SUMMARY STATEMENT: Included in Exhibit A is a contract for the acceptance of annually awarded grant funds in the amount of \$5,919.34 from the Seattle-King County Department of Health to help hold a spring recycling event in March or April of 2013.		
COMMITTEE REVIEW AND RECOMMENDATION: 		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-848, authorizing the Mayor to execute a grant agreement with the Seattle-King County Department of Health for the acceptance of grant funds to be utilized in support of the City’s Special Collection Event to be held in the spring of 2013.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
January 3, 2013		

RESOLUTION NO. 13-848

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE SEATTLE-KING COUNTY DEPARTMENT OF HEALTH FOR GRANT MONIES OFFERED BY THE LOCAL HAZARDOUS WASTE MANAGEMENT PROGRAM IN THE AMOUNT OF \$5,925.81

WHEREAS, the City of Black Diamond has identified the need for recycling services associated with its spring, 2013 special collection event; and

WHEREAS, The Seattle-King County Department of Health has offered a grant (EHS2837) in the amount of \$5,925.81 in support of this special collection event that helps local residents get rid of recyclable materials in a safe and convenient manner and helps clean up the City;

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

Section 1. The Mayor is hereby authorized to enter into a contract with the Seattle-King County Department of Health to receive grant monies in the amount of \$5,925.81, said agreement to be substantially in the form attached hereto as Exhibit A and by reference incorporated herein.

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

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

Exhibit A

King County Contract No. EHS2837
Federal Taxpayer ID No. 91-6016204

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

**KING COUNTY CONTRACT FOR SERVICES WITH OTHER GOVERNMENT, INSTITUTION,
OR JURISDICTION – 2013**

Department Division	Seattle-King County Dept. of Public Health (a.k.a. Public Health – Seattle & King County)/EHS
Contractor	City of Black Diamond
Project Title	Local Hazardous Waste Management Program
Contract Amount	Five Thousand Nine Hundred Twenty Five Dollars and Eighty One Cents
Contract Period	Start date: 01/01/2013 End date: 12/31/2013

THIS CONTRACT is entered into by KING COUNTY (the “County”), and City of Black Diamond (the “Contractor”), whose address is PO Box 599, Black Diamond, WA 98010.

WHEREAS, the County has been advised that the following are the current funding sources, funding levels and effective dates:

FUNDING SOURCES	FUNDING LEVELS	EFFECTIVE DATES
COUNTY	\$5,925.81	1/1/2013 - 12/31/2013
TOTAL	\$5,925.81	1/1/2013 - 12/31/2013

and

WHEREAS, the County desires to have certain services performed by the Contractor as described in this Contract, and as authorized by the 2013 Annual Budget.

NOW THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

I Incorporation of Exhibits

The Contractor shall provide services and comply with the requirements set forth in the following attached exhibits, which are incorporated herein by reference:

A Program Exhibits and Requirements

- Exhibit A: Scope of Work
- Exhibit B: Budget
- Exhibit C: Invoice

B King County Required Forms

- Exhibit D: Certificate of Insurance and Additional Insured Endorsement

II Term and Termination

- A** This Contract shall commence on 01/01/2013, and shall terminate on 12/31/2013, unless extended or terminated earlier, pursuant to the terms and conditions of the Contract.

- B This Contract may be terminated by the either party without cause, in whole or in part, prior to the date specified in Subsection II.A. above, by providing the other party thirty (30) days advance written notice of the termination.
- C The County may terminate this Contract, in whole or in part, upon seven (7) days advance written notice in the event: (1) the Contractor materially breaches any duty, obligation, or service required pursuant to this Contract, or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the Contract is terminated by the County pursuant to this Subsection II.C. (1), the Contractor shall be liable for damages, including any additional costs of procurement of similar services from another source.

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.

- D 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 Subsection II.A., the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.

If the Contract is terminated as provided in this Subsection: (1) the County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.

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 will terminate at the close of the current appropriation year.

- E Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract or law 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.

III Compensation and Method of Payment

- A The County shall reimburse the Contractor for satisfactory completion of the services and requirements specified in this Contract, payable in the following manner:
Upon receipt and approval by the County of a signed invoice as set forth in Exhibit C that complies with the budget in Exhibit B.
- B The Contractor shall submit an invoice and all accompanying reports as specified in the attached exhibits not more than 60 working days after the close of each indicated reporting period. The County will initiate authorization for payment after approval of corrected invoices and reports. The County shall make payment to the Contractor not more than 30 days after a complete and accurate invoice is received.
- C The Contractor shall submit its final invoice and all outstanding reports within 90 days of the date this Contract terminates. If the Contractor's final invoice and reports are not submitted by the day specified in this subsection, the County will be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice.
- D When a budget is attached hereto as an exhibit, the Contractor shall apply the funds received from the County under this Contract in accordance with said budget. The contract may contain separate budgets for separate program components. The Contractor shall request prior approval from the County for an amendment to this Contract when the cumulative amount of transfers among the budget categories is expected to exceed 10% of the Contract amount in any Contract

budget. Supporting documents necessary to explain fully the nature and purpose of the amendment must accompany each request for an amendment.

- E If travel costs are contained in the attached budget, reimbursement of Contractor travel, lodging, and meal expenses are limited to the eligible costs based on the following rates and criteria.
- 1 The mileage rate allowed by King County shall not exceed the current Internal Revenue Service (IRS) rates per mile as allowed for business related travel. The IRS mileage rate shall be paid for the operation, maintenance and depreciation of individually owned vehicles for that time which the vehicle is used during work hours. Parking shall be the actual cost. When rental vehicles are authorized, government rates shall be requested. If the Contractor does not request government rates, the Contractor shall be personally responsible for the difference. Please reference the federal web site for current rates: <http://www.gsa.gov>.
 - 2 Reimbursement for meals shall be limited to the per diem rates established by federal travel requisitions for the host city in the Code of Federal Regulations, 41 CFR § 301, App.A. Please reference <http://www.gsa.gov> for the current host city per diem rates.
 - 3 Accommodation rates shall not exceed the federal lodging limit plus host city taxes. The Contractor shall always request government rates.
 - 4 Air travel shall be by coach class at the lowest possible price available at the time the County requests a particular trip. In general, a trip is associated with a particular work activity of limited duration and only one round-trip ticket, per person, shall be billed per trip. Any air travel occurring as part of federal grant must be in accordance with the Fly America Act.

IV **Internal Control and Accounting System**

The Contractor shall establish and maintain a system of accounting and internal controls which complies with applicable, generally accepted government accounting standards (GAGAS).

V **Debarment and Suspension Certification**

Agencies receiving federal funds that are debarred, suspended, or proposed for debarment are excluded from contracting with the County. The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, or proposed for debarment by any Federal department or agency. The Contractor also agrees that it will not enter into a subcontract with a contractor that is debarred, suspended, or proposed for debarment. The Contractor agrees to notify King County in the event it, or a subcontractor, is debarred, suspended, or proposed for debarment by any Federal department or agency. For more information on suspension and debarment, see Federal Acquisition Regulation 9.4.

VI **Maintenance of Records/Evaluations and Inspections**

- A The Contractor shall maintain accounts and records, including personnel, property, financial, and programmatic records and other such records as may be deemed necessary by the County to ensure proper accounting for all Contract funds and compliance with this Contract.
- B In accordance with the nondiscrimination and equal employment opportunity requirements set forth in Section XIV. below, the Contractor shall maintain the following:
- 1 Records of employment, employment advertisements, application forms, and other pertinent data, records and information related to employment, applications for employment or the administration or delivery of services or any other benefits under this Contract; and
 - 2 Records, including written quotes, bids, estimates or proposals submitted to the 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 mutually agreeable 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.

- C Except as provided in Section VII of this Contract, the records listed in A and B above shall be maintained for a period of six (6) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with Revised Code of Washington (RCW) Chapter 40.14.
- D Medical records shall be maintained and preserved by the Contractor in accordance with state and federal medical records statutes, including but not limited to RCW 70.41.190, 70.02.160, and standard medical records practice. If the Contractor ceases operations under this Contract, the Contractor shall be responsible for the disposition and maintenance of such medical records.
- E 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.
- F 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.

VII Compliance with the Health Insurance Portability Accountability Act of 1996 (HIPAA)

The Contractor shall not use protected health information created or shared under this Contract in any manner that would constitute a violation of HIPAA and any regulations enacted pursuant to its provisions. Contractor shall read and certify compliance with all HIPAA requirements at <http://www.kingcounty.gov/healthservices/health/partnerships/contracts>

VIII Audits

- A If the Contractor or subcontractor is a municipal entity or other government institution or jurisdiction, or is a non-profit organization as defined in OMB Circular A-133, and expends a total of \$500,000 or more in federal financial assistance and has received federal financial assistance from the County during its fiscal year, then the Contractor or subcontractor shall meet the respective A-133 requirements described in subsections VIII.B. and VIII.C.
- B If the Contractor is a non-profit organization, it shall have an independent audit conducted of its financial statement and condition, which shall comply with the requirements of GAAS (generally accepted auditing standards); GAO's Standards for Audits of Governmental Organizations, Programs, Activities, and Functions; and OMB Circular A-133, as amended, and as applicable. The Contractor shall provide a copy of the audit report to each County division providing financial assistance to the Contractor no later than six (6) months subsequent to the end of the Contractor's fiscal year. The Contractor shall provide to the County its response and corrective action plan for all findings and reportable conditions contained in its audit. When reference is made in its audit to a "Management Letter" or other correspondence made by the auditor, the Contractor shall provide copies of those communications and the Contractor's response and corrective action plan. Submittal of these documents shall constitute compliance with subsection VIII.A.
- C If the Contractor is a municipal entity or other government institution or jurisdiction, it shall submit to the County a copy of its annual report of examination/audit, conducted by the Washington State Auditor, within thirty (30) days of receipt, which submittal shall constitute compliance with subsection VIII.A.
- D If the Contractor, for-profit or non-profit, receives in excess of \$100,000 in funds during its fiscal year from the County, it shall provide a fiscal year financial statement prepared by an independent Certified Public Accountant or Accounting Firm within six (6) months subsequent to the close of the Contractor's fiscal year.

- E Additional audit or review requirements which may be imposed on the County will be passed on to the Contractor and the Contractor will be required to comply with any such requirements.

IX Corrective Action

If the County determines that a breach of contract has occurred, that is, the Contractor has failed to comply with any terms or conditions of this Contract or the Contractor has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure will apply:

- A The County will notify the Contractor in writing of the nature of the breach;
The Contractor shall respond in writing within three (3) working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which date shall not be more than ten (10) days from the date of the Contractor's response, unless the County, at its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions;
- B The County will notify the Contractor in writing of the County's determination as to the sufficiency of the Contractor's corrective action plan. The determination of sufficiency of the Contractor's corrective action plan shall be at the sole discretion of the County;
- C 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 Section II.C.;
- D 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; and
- E Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section II. Subsections B, C, D, and E.

X Dispute Resolution

The parties shall use their best, good-faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will make a good faith effort to continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve the dispute under this section.

XI Hold Harmless and Indemnification

- A In providing services under this Contract, the Contractor is an independent Contractor, and neither it nor its officers, agents, employees, or subcontractors 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, subcontractors and/or others by reason of this Contract. The Contractor shall protect, indemnify, and save 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 The Contractor further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception which 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, or subcontractors. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Term and Termination section.

- C The Contractor shall defend, indemnify, and hold harmless the 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 acts or omissions of the Contractor, its officers, employees, subcontractors and/or agents in its performance or non-performance of its obligations under this Contract. In the event the County incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor.
- D The County shall defend, indemnify, and hold harmless the Contractor, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arise out of, or in any way result from, the negligent acts or omissions of the County, its officers, employees, or agents in its performance or non-performance of its obligations under this Contract. In the event the Contractor incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the County.
- E 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.
- F Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.
- G The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

XII Insurance Requirements

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 subcontractors. The costs of such insurance shall be paid by the Contractor or subcontractor. The Contractor may furnish separate certificates of insurance and policy endorsements for each 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, subcontractors, providers, and/or provider subcontractors to comply with the insurance requirements stated herein shall constitute a material breach of this Contract. Specific coverages and requirements are at <http://www.kingcounty.gov/healthservices/health/partnerships/contracts>; contractors shall read and certify compliance.

XIII Assignment/Subcontracting

- A The Contractor shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of the County. Said consent must be sought in writing by the Contractor not less than fifteen (15) days prior to the date of any proposed assignment.
- B "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.

- C The Contractor shall include Sections III.D., III.E., IV, V, VI, VII, VIII, XI, XII, XIV, XV, XXI, and XXV, in every subcontract or purchase agreement for services that relate to the subject matter of this Contract.
- D 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, employees, 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."

XIV Nondiscrimination and Equal Employment Opportunity

The Contractor shall comply with all applicable federal, state and local laws regarding discrimination, including those set forth in this Section.

During performance of the Contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of the employee or applicant's 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. The Contractor will make 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. Additional requirements are at <http://www.kingcounty.gov/healthservices/health/partnerships/contracts>; contractors shall read and certify compliance.

XV Conflict of Interest

- A The Contractor agrees to comply with applicable provisions of K.C.C. 3.04. Failure to comply with such requirements shall be a material breach of this contract, and may result in termination of this Contract pursuant to Section II and subject the Contractor to the remedies stated therein, or otherwise available to the County at law or in equity.
- B The Contractor agrees, pursuant to KCC 3.04.060, that it will not willfully attempt to secure preferential treatment in its 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 will be cancelled and it shall not be able to bid on any county contract for a period of two years.
- C The Contractor acknowledges that for one year after leaving County employment, a former County employee may not have a financial or beneficial interest in a contract or grant that was planned, authorized, or funded by a County action in which the former County employee participated during County employment. 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 transaction may result in the County's denying or terminating this Contract. 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.

XVI Equipment Purchase, Maintenance, and Ownership

- A The Contractor agrees that any equipment purchased, in whole or in part, with Contract funds at a cost of \$5,000 per item or more, when the purchase of such equipment is reimbursable as a Contract budget item, is upon its purchase or receipt the property of the County and/or

federal/state government. The Contractor shall be responsible for all such property, including the proper care and maintenance of the equipment.

- B The Contractor shall ensure that all such equipment will be returned to the County or federal/state government upon termination of this Contract unless otherwise agreed upon by the parties.

XVII Proprietary Rights

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 party that produces such material or article. If any patentable or copyrightable material or article should result from the work described herein and is jointly produced by both parties, all rights accruing from such material or article shall be owned in accordance with US Patent Law. Each party agrees to and does hereby grant to the other party, irrevocable, nonexclusive, and royalty-free license to use, according to law, any material or article and use any method that may be developed as part of the work under this Contract.

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.

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.

XVIII Political Activity Prohibited

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.

XIX King County Recycled Product Procurement Policy

In accordance with King County Code 10.16, the Contractor shall use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this Contract. In addition, the Contractor shall use both sides of paper sheets for copying and printing and shall use recycled/recyclable products wherever practical in the fulfillment of this Contract.

XX 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.

XXI 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.

XXII 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.

XXIII 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 office of the Contractor and the project representative of the

County department specified on page one of this Contract. Any time within which a party must take some action shall be computed from the date that the notice is received by said party.

XXIV Services Provided in Accordance with Law and Rule and Regulation

The Contractor and any subcontractor agree to abide by the laws of the state of Washington, rules and regulations promulgated thereunder, 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.

In the event that there is a conflict between any of the language contained in any exhibit or attachment to this Contract, the language in the Contract shall have control over the language contained in the exhibit or the attachment, unless the parties affirmatively agree in writing to the contrary.

XXV Applicable Law

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue for any action hereunder shall be in the Superior Court for King County, Washington.

XXVI 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 hereto.

IN WITNESS HEREOF, the parties hereby agree to the terms and conditions of this Contract:

KING COUNTY

City of Black Diamond

FOR

King County Executive

Signature

Date

NAME (Please type or print)

Date

Approved as to Form:

OFFICE OF THE KING COUNTY PROSECUTING ATTORNEY

Contract #EHS2837 - Local Hazardous Waste Management Program

EXHIBIT A**CITY OF BLACK DIAMOND
2013 SCOPE OF WORK
1/1/2013-12/31/2013**

The Local Hazardous Waste Management Plan (hereafter referred to as the “Plan”) as updated in 1997 and 2010, was adopted by the partner agencies (King County Solid Waste Division, Seattle Public Utilities, King County Water and Land Resources Division and the Seattle-King County Department of Public Health) and cities located in King County. The Washington State Department of Ecology in accordance with RCW 70.105.220 subsequently approved the Plan. The City is an active and valued partner in the regional Local Hazardous Waste Management Program (hereafter referred to as the “Program”).

The purpose of this Exhibit is to define the relationship associated with the Program’s funding of City activities performed under the auspices of the Plan and as approved by the Program’s Management Coordination Committee (hereinafter referred to as the “MCC”). This Agreement further defines the responsibilities of the City and Seattle-King County Department of Public Health with respect to the transfer of Program monies.

Scope of Work

The City of Black Diamond will organize a citywide household hazardous waste collection and recycling event. At the event the following materials will be collected and recycled: motor oil, motor oil filters, petroleum based products, antifreeze, batteries, CFC appliances and other materials if determined to be cost effective.

Responsibilities of the Parties

The responsibilities of the parties to this Contract shall be as follows:

A. The City

1. The City shall develop and submit project proposals and budget requests to the Program’s Contract Administrator. Funds provided to the City by the Local Hazardous Waste Management Program pursuant to this Contract shall be used to implement hazardous waste programs and/or services as approved by the MCC.
2. For reimbursement the City shall submit the following to the Fund Manager:
 - a) An invoice (see Exhibit C). Invoices should be sent to the Fund Manager for approval and payment.
 - b) A brief description of activity accomplished and funds expended in accordance with the scope of work.
 - c) Copies of invoices for expenditures or a financial statement prepared by the City’s finance department. The financial statements should include vendor

names, a description of services provided, date paid and a check or warrant number.

3. The City shall notify the Fund Manager no later than December 15th regarding the amount of outstanding expenditures for which the City has not yet submitted a reimbursement request.
4. It is the responsibility of the City to comply with all applicable county, state and/or federal reporting requirements with respect to the collection and transfer of moderate risk wastes. The City shall report to the Contract Administrator the quantity, by type, of moderate risk waste collected using Program funds. The City shall also provide the Contract Administrator with copies of EPA's Non-Hazardous Waste Manifest or similar form, associated with the transport of moderate risk waste collected through Program-funded events.
5. The City is solely responsible for any and all spills, leaks or other emergencies arising at the facilities associated with the City's events or in any other way associated with activities conducted within the scope of this Contract. In the event of a spill or other emergency, the City is responsible for complying with all applicable laws and regulations.
6. The City agrees to appropriately acknowledge the Program in all media produced – in part or in whole – with Program funds. The intent of this provision is to further strengthen this regional partnership in the public's mind.
7. The City agrees to provide the Program with copies of all media material produced for local hazardous waste management events or activities that have been funded by the Program. The City also agrees to allow the Program to reproduce media materials created with Program money provided that the Program credits the City as the originator of that material.
8. This project shall be administered by Aaron Nix at the City of Black Diamond, PO Box 599, Black Diamond, at (360) 886-2560, (anix@ci.blackdiamond.wa.us), or his designee.
9. Questions or concerns regarding any issue associated with this Exhibit that cannot be handled by the Contract Administrator or Fund Manager should be referred to the LHWMP Program Director for resolution.

B. Seattle-King County Department of Public Health

1. Seattle-King County Department of Public Health shall administer, via the attached Contract, the transfer of Program funds to the City for hazardous waste management events and activities.
2. Within ten (10) working days of receiving a request for reimbursement from the City, the Fund Manager shall either notify the City of any exceptions to the request which have been identified or shall process the request for payment. If any exceptions to the request are made, this shall be done by written notification to the City providing the reason for such exception. The Fund Manager will not authorize payment for activities and/or expenditures that are not included in the scope of work, unless the scope has been amended. The Fund Manager retains the right to withhold all or partial payment if the City's invoices are incomplete (e.g. they do not include proper documentation of expenditures for which reimbursement is being requested) or are not consistent with the submitted scope of work.

C. Program Contacts

Lauren Cole
Acting LHWMP Program Director
150 Nickerson Street, Suite 100
Seattle, WA 98109
206-240-5977
lauren.cole@kingcounty.gov

Madelaine Yun
LHWMP Fund Manager
150 Nickerson Street, Suite 100
Seattle, WA 98109
206-352-7128
madelaine.yun@kingcounty.gov

Paul Shallow
LHWMP Contract Administrator
401 Fifth Avenue, Suite 1100
Seattle, WA 98104
206-263-8487
paul.shallow@kingcounty.gov

EXHIBIT B

2013 BUDGET

LOCAL HAZARDOUS WASTE MANAGEMENT PROGRAM

The City of Black Diamond
P.O. Box 599
Black Diamond, WA 98010

Component Description	Budget
Household Hazardous Waste Education	
Household Hazardous Waste Collection	\$5,925.81
TOTAL	\$5,925.81

EXHIBIT C

2013 INVOICE

LOCAL HAZARDOUS WASTE MANAGEMENT PROGRAM

From: The City of Black Diamond
P.O. Box 599
Black Diamond, WA 98010

To: Madelaine Yun, Fund Manager
Local Hazardous Waste Management Program in King County
Public Health, Seattle & King County
150 Nickerson St, Suite 100
Seattle, WA 98109

Contract #EHS2837

Period of time: _____, 2013 to _____, 2013.

In performance of a signed Contract between King County and the City of Black Diamond, I hereby certify that the following expenses were incurred during the above-mentioned period of time.

Signature

Date

Component Description	Budget	Current Expenses	Previous Charges	Balance
Household Hazardous Waste Education				
Household Hazardous Waste Collection	\$5,925.81			
TOTAL	\$5,925.81			

For Health Department Use Only

FOR HEALTH DEPARTMENT USE ONLY			
Oracle Purchase Order #	Invoice Date	Invoice #	Amount to be paid
Oracle Requisition #	Oracle Receipt #	Oracle CPA #	

Local Hazardous Waste Management Program Approval:

Madelaine Yun

Date

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-849, authorizing the Mayor to execute a MOU with Olympic Environmental Resources for the 2013 Special Recycling Event	Agenda Date: January 3, 2013	
	AB13-005	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	X
	Economic Devel. – Andy Williamson	
Cost Impact: \$18,709.31	Police – Jamey Kiblinger	
Fund Source: Three Grants	Court – Stephanie Metcalf	
Timeline: Spring of 2013	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 13-849, Exhibit A (Memorandum of Understanding)		
SUMMARY STATEMENT: Since the mid 90's, the City has received grant funds to hold an annual spring recycling event coordinated and run by Olympic Environmental Resources. The event is highly attended by the Black Diamond Community and a great opportunity for recyclers to get rid of their spring cleaning materials. In addition, a wood chipping component is included that allows residents to bring in limbs and yard debris that has collected over the winter months. Staff is looking for the council to have the Mayor sign the Memorandum of Understanding with Olympic Environmental Resources to help manage all three grant resources and hold the event sometime in March or April.		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-849, authorizing the Mayor to execute a Memorandum of Understanding with Olympic Environmental Resources for the 2013 Special Recycling Event.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
January 3, 2013		

RESOLUTION NO. 13-849

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A
MEMORANDUM OF UNDERSTANDING WITH OLYMPIC
ENVIRONMENTAL RESOURCES FOR THE 2013 SPECIAL
RECYCLING EVENT**

WHEREAS, the City of Black Diamond has identified the need for recycling services associated with resources received by the City to hold the annual spring recycling event; and

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 Memorandum of Understanding with Olympic Environmental Resources for the year 2013, spring recycling event, in an amount not to exceed \$18,709.31, said agreement to be substantially in the form attached hereto as Exhibit A and by reference incorporated herein.

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

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk



Olympic Environmental Resources

4715 SW Walker Street, Seattle WA 98116

Tel. 206 938-8262 Fax (206) 938-9873

Email: pauldevine@msn.com

Memorandum of Understanding

To: The City of Black Diamond
From: Olympic Environmental Resources
Date: December 5, 2012
RE: **City of Black Diamond/Olympic Environmental Resources Agreement for Implementing 2013 Recycling Projects**

This Memorandum of Understanding is intended to detail Olympic Environmental Resources (OER) services and responsibilities in implementing City of Black Diamond Recycling 2013 Spring Recycling Collection Event.

The proposed project includes:

One Recycling Collection Event

The event is tentatively scheduled for March or April 2013 at Black Diamond Police Department. At the event the following materials will be collected and recycled: used tires, used anti-freeze, used petroleum-based products, used oil filters, lead acid and household batteries, used motor oil, scrap wood, electronic equipment, computer equipment, appliances (including refrigerators, freezers, household air conditioners, and other appliances), ferrous metals, nonferrous metals, textiles, reusable or recyclable household goods, porcelain toilets and sinks, propane tanks, mattresses, and other materials whenever practical. User fees will apply to the collection of some materials.

At the 2013 Spring Recycling Collection Event, OER will organize a chipper/bulk yard debris collection event to be held in conjunction with the Recycling Collection Event.

OER wishes to involve the Black Diamond staff at the level most comfortable for the City. OER will meet with the City of Black Diamond staff at any time during the project for updates on activities or will pursue activities independently if desired by the City.

The project budget will incorporate the City of Black Diamond grant funds available from the Seattle-King County Health Department, King County Solid Waste Division, and the Washington State Department of Ecology. **The budget is contingent on continued grant funding from King County and the**

Washington State Department of Ecology. Total grant funds are estimated at \$18,709.31 and includes all items that will be billed to the grants directly by the City, such as City staff time. The specific project activities to be carried out by OER are detailed in the grant scopes of work. OER will cover project expenses as they arise, such as the costs of printing and vendor services. OER will then request reimbursement of staff time and expenses on a monthly basis with thirty-day payment terms. OER will assist the City in requesting reimbursement for these costs from the King County Solid Waste Division, Seattle-King County Health Department, and the Washington State Department of Ecology.

OER's goal is to conduct events with very limited City staff time and no City cost. However, there are a number of "official acts" necessary for the City to bring the programs on line:

- Sign necessary grant agreements.
- Keep OER informed of any changes made to grant agreements.
- Reimburse OER for staff time and expenses from grant funding.

Recycling related programs continue on an annual basis. OER will continue to provide service to the City of Black Diamond until the City decides to no longer participate. We ask that you provide thirty-days (30) notice to discontinue services. This agreement solidifies our relationship. Please sign both copies of this agreement and return one to OER. OER looks forward to working with the City of Black Diamond in 2013.

City of Black Diamond

Olympic Environmental Resources

2013 Black Diamond Recycling Grants

The City of Black Diamond is eligible and has applied for the following grants. It is expected that no non-grant City funds will be expended on recycling projects in 2013. The City has applied for the following:

- 1) The King County Health Department Local Hazardous Waste Management Plan Grant. Grant total \$5,925.81.
 - 2) The Washington State Department of Ecology Coordinated Prevention Grant. Grant total \$2,783.50.
 - 3) The King County Waste Reduction and Recycling Grant Program. Grant total \$10,000.00.
- TOTAL: \$18,709.31

1. Task One: Recycling Collection Event Budget

Estimated Costs	2013	2013	2013	TOTAL
	LHWMP	CPG*	WRR	
City Staff Costs	\$600.00	\$0.00	\$400.00	\$1,000.00
Management/Staffing/Admin/Graphics	\$2,998.00	\$1,443.50	\$2,997.50	\$7,439.00
Event Staff Costs	\$0.00	\$440.00	\$1,402.50	\$1,842.50
Collection/Hauling Costs				
Wood Waste	\$0.00	\$0.00	\$200.00	\$200.00
Scrap Metal, Appliances, etc.	\$0.00	\$900.00	\$900.00	\$1,800.00
Tires	\$0.00	\$0.00	\$700.00	\$700.00
Used Oil/Antifreeze	\$1,100.00	\$0.00	\$0.00	\$1,100.00
Batteries	\$350.00	\$0.00	\$0.00	\$350.00
Printing/Mailing	\$225.00	\$0.00	\$300.00	\$525.00
Event Supplies	\$200.00	\$0.00	\$300.00	\$500.00
Other Expenses - rentals, etc	\$452.81	\$0.00	\$800.00	\$1,252.81
TOTALS	\$5,925.81	\$2,783.50	\$8,000.00	\$16,709.31

*Note – the CPG grant total will be billed to the City of Maple Valley per the two-City agreement with the Department of Ecology.

2. Task Two: Chipper/Bulk Yard Debris Collection Event Budget

ESTIMATED COSTS	2013	Total
Program Management/Coordination/Reporting	\$550.00	\$550.00
Contractor Services	\$900.00	\$900.00
Event Staff	\$550.00	\$550.00
Supplies	\$0.00	\$0.00
Total	\$2,000.00	\$2,000.00

NOTE: Hourly rates for consultants are as follows: Project Manager - \$70.00 and Event Staff - \$55.00.

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13- 850, authorizing the Mayor to execute an Agreement with Darcy McPherson for public defense services.	Agenda Date: January 3, 2013	
	AB13-006	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –Pete Butkus	X
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
Cost Impact: \$15,000	Police – Jamey Kiblinger	
Fund Source: GF	Court – Stephanie Metcalf	
Timeline: Effective 01 JAN 2013	Comm. Dev. – Steve Pilcher	
Attachments: Draft Resolution No. 13-850		
SUMMARY STATEMENT: <p>The existing Agreement for public defense services has expired. Services have continued on a month-to-month basis. It is strongly desired to have these services performed in the future under a new Agreement that takes into account certain standards for public defense services as mandated by the State Supreme Court.</p> <p>The attorney managing public defense services for the past three years has performed well under the now-expired Agreement. This Resolution and Agreement allows for a continuation of that service.</p> <p>The term is for One year with options for (2) one-year extensions.</p>		
COMMITTEE REVIEW AND RECOMMENDATION: N/A		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-850, authorizing the Mayor to execute an Agreement with Darcy McPherson for public defender services.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
January 3, 2013		

RESOLUTION NO. 13-850

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, WASHINGTON AUTHORIZING THE
MAYOR TO EXECUTE A PROFESSIONAL SERVICE
AGREEMENT WITH DARCY MCPHERSON REGARDING
PUBLIC DEFENSE SERVICES**

WHEREAS, the city needs to provide for a continuation of public defense services; and

WHEREAS, the existing provider of public defense services, Darcy McPherson, has indicated a desire to continue to provide these services;

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

Section 1. The Mayor is hereby authorized to execute a Professional Services Agreement with Darcy McPherson regarding Public Defense Services which is identified as Exhibit "A" and attached hereto.

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

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CITY OF BLACK DIAMOND CONTRACT
FOR PUBLIC DEFENSE SERVICES**

1. Parties. This Agreement is entered into between the City of Black Diamond, Washington ("City"), and Darcy D. McPherson and McPherson Law Office ("Attorney"); collectively, the "Parties."
2. Scope of Services.
 - a. Attorney shall provide public defender services for indigent criminal defendants charged in Black Diamond Municipal Court under ordinance of the City or laws of the state of Washington who qualify for counsel. Attorney shall provide legal representation for each of these defendants from the time of screening or appointment through trial, sentencing, and appeal to Superior Court, if necessary. Attorney shall be allowed to withdraw from representation upon disposition of a case or if allowed to withdraw upon motion to the Court. Compliance reviews and/or probation revocation hearings are also the responsibility of Attorney following appointment by the Court, but shall be subject to additional compensation outside of the per case flat rate as per Article 7, below.
 - b. Attorney shall provide standby representation to all in-custody defendants as well as general advice to unrepresented defendants at out-of-custody arraignments.
 - a. Attorney shall provide the Black Diamond Police Department with the telephone number or numbers at which the Attorney can be reached for critical stage advice to defendants during the course of police investigations and/or arrests twenty-four (24) hours each day. Attorney shall also provide the Black Diamond Police Department with the phone number and contact information for at least two (2) other back-up lawyers who are licensed in Washington State should Attorney be unreachable.
 - b. Attorney shall be available for next court day preliminary hearings. Attorney can appear by telephone/video conferencing for such hearings, if available. Attorney shall also provide the City with the phone number and contact information for at least two (2) other back-up lawyers who are licensed in Washington State should Attorney be unreachable for preliminary hearings.
 - c. The Attorney shall file monthly reports with the City delineating each client who has been appointed to the Attorney, including name(s), charge(s), case number (s), disposition, bench or jury trial (if applicable), and whether an appeal was filed. The report is due on or before the tenth (10th) day of the following month for services of the prior month.
 - d. The Attorney shall provide a letter of introduction to the screener to be handed out to each defendant who receives an appointment.
3. Applicant Screening. Determination of for eligibility of appointed counsel under this Agreement shall be determined by a screening process established by the Court. The Court shall be responsible for handling the screening process

4. Associated Counsel. The Attorney may associate or employ additional attorneys to represent defendants under this Agreement at Attorney's expense. All attorneys who provide public defense services under this Agreement with the City must be acceptable to the City and must be approved in advance by the City. No legal interns shall be used unless agreed to in advance by the City. Attorney shall be responsible for overseeing and approving services performed by other attorneys under this Agreement.
5. Term; Nunc-Pro Tunc. The provision of services under this agreement shall commence on January 1, 2013. This Agreement shall remain in full force and effect through December 31, 2013, unless terminated earlier pursuant to the terms hereof. This agreement may be extended for two (2) one-year periods by mutual agreement of the parties. In the event that this agreement is executed on or after January 1, 2013, the parties agree that the terms and conditions hereof shall be interpreted and applied as though the effective date hereof was January 1, 2013.
6. Case defined. A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. As the Black Diamond Municipal Court is a court of limited jurisdiction, multiple citations from the same incident are counted as one case.
7. Compensation.
- a. Compensation for the services performed under this Agreement shall be a flat fee of \$150 per assigned case, for all services performed, until disposition of the case or when withdrawal of attorney from the case is allowed by the Court.
 - b. Attorney shall be paid \$200 per month for coverage of arraignments, telephonic bail hearings, and review, revocation & probation hearings. Attorney shall be allowed to withdraw as attorney of record when each case reaches disposition (plea or other similar disposition, dismissal, verdict after trial or mistrial. Backup attorneys, as may be necessary, shall be paid for by the Contractor.
 - c. This compensation covers all necessary preparation and hearings to resolve the issue(s) underlying a motion to revoke.
 - d. The City shall pay Attorney an additional sum of \$350 for each jury trial in which testimony or evidence is admitted, and each appeal to Superior Court in which the Attorney actually files an appellate brief.
 - e. Such fees shall include all overhead, costs and expenses of Attorney, except as otherwise set forth herein, and be Attorney's sole compensation. All compensation is inclusive of administrative costs as set forth in Standard 5.2 of the Washington State Supreme Court Standards for Indigent Defense issued on September 7, 2012.
8. Professional Liability Coverage. During the term of the Contract, the Attorney shall have professional liability coverage in a minimum amount of \$1,000,000 per claim and \$1,000,000 in general aggregate covering Attorney and Attorney's agents and employees providing services under this

Agreement. Proof of this coverage must be provided to the City prior mutual acceptance of this contract.

9. Indemnification/ Hold Harmless. Attorney 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 out of or resulting from the acts, errors or omissions of the Attorney, and Attorney's associates, agents and employees, in performance of this Agreement. To the extent that any of the damages referenced by this paragraph are caused by or resulting from the concurrent negligence of the City, its agents or employees, this obligation to indemnify, defend and hold harmless will be valid and enforceable only to the extent of the negligence of the Attorney, its associates, agents and employees.

10. Reimbursement of Certain Costs. The City shall reimburse the Attorney for reasonable expert witness fees if the court orders an expert witness upon motion of the Attorney. The City shall reimburse the Attorney for the costs of third party investigative services if the court orders the use of an investigator upon motion of the Attorney. The City shall reimburse the Attorney for the costs of appellate transcripts as required by court rules.

11. Discovery Provided. The City shall provide to the Attorney at no cost to the Attorney or the defendant one (1) copy of all discoverable materials concerning each assigned case with the exception of audio and video tapes which shall be made available for inspection in accordance with rules for discovery. Attorney will have fax and email available for transmission of discovery.

12. Interpreters. Attorney will meet with indigent clients who require interpreters at the court facility and/or jail at the City's expense. When special circumstances arise that may require a more extensive interview, Attorney will contract the Court to arrange for interpreting services.

13. Assignment or Subcontractors. The contract for public defense services may not be assigned or subcontracted without the prior written consent of the City.

14. Standard of Care. Attorney represents and warrants that she, and any agents used to perform services under this Agreement, has the requisite training, skill and experience necessary to provide the services described herein and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided under this Agreement shall 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. The Attorney shall comply with the applicable standards for public defense services pursuant to Chapter 10.101 RCW and in compliance with Standard 14 of the Washington State Supreme Court Standards for Indigent Defense issued on September 7, 2012.

15. Readiness. The Attorney is expected to be prepared to proceed at every stage of the criminal proceedings, unless restricted by circumstances outside of the Attorney's control. The Attorney will be expected to make every effort to come to scheduled court hearings and calendars prepared to proceed on all assigned cases.

16. Termination.

- a. Either party may terminate this Agreement without cause, by giving the other party ninety (90) days written notice.
 - b. Either party may terminate this agreement on seven (7) days written notice in the event of (1) material breach of contract, (2) violation of the rules of professional conduct, or (3) unforeseen medical issues. Such termination is effective only if the party terminating has provided written notice of the deficiency to the other party and such deficiency is not corrected in a timely manner to the reasonable satisfaction of the terminating party.
 - c. The City shall have the right to terminate this Agreement immediately if the license to practice law of Darcy D. McPherson is suspended or revoked. In the event of termination or expiration of the Agreement, the Attorney shall complete all pending cases if lawfully able to do so.
17. Attorney Conflict. In the event the Attorney must withdraw from a case because of a conflict of interest, the matter will be referred to the municipal court judge for a final decision. Upon the judge's determination that the Attorney cannot represent the assigned client, the Court shall appoint the client to appropriate conflict counsel.
18. Discrimination and Compliance with Laws.
- a. Attorney 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.
 - b. Attorney shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.
19. Records retention. Attorney 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 or the Rules of Professional Conduct. Copies shall be made available on request.
20. Independent Contractor. Attorney is and shall be at all times during the term of this Agreement an independent contractor. Nothing in this Agreement shall be considered to create an employment relationship between the parties. Neither Attorney nor any employee of Attorney shall be entitled to any benefits accorded City employees. Office space for meetings with clients is provided by the Contractor in Kitsap County, Washington or at another mutually-agreed location.
21. Governing Law and Venue for Disputes. 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.
22. Attorneys' Fees. 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 attorneys' fees from the other party.

23. Entire Agreement--Modification. This Agreement represents the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended or modified only by express written consent of both parties.

24. Training. Attorneys and all attorney employees who regularly appear in the Black Diamond Municipal Court pursuant to this contract shall attend at least seven (7) continuing legal education hour credits approved by the Washington State Office of Public Defense annually.

25. Supervision of Contract and Professional Standard. Any defendant complaints regarding Attorney's services shall first be addressed by Attorney. If defendant this does not resolve defendant's complaint to defendant's satisfaction, Attorney shall report the complaint to the Judge of the Black Diamond Municipal Court within 5 business days and inform defendant in writing of defendant's right to notify the court of complaint.

26. Private Practice Case Load. Attorney shall maintain compliance with case load requirements as stated by the Supreme Court Order for Indigent Defense Standards and shall file certification as required by this Order.

27. Extraordinarily Complex Cases. Attorney may ask City for extra compensation in extraordinarily complex cases. In order to request such extra compensation, Attorney must make a written request to the Black Diamond Municipal Court for Extraordinary Compensation before extra work or costs are incurred. A copy of such request shall be provided to the Mayor prior to the Court hearing on the request. Such requests may be heard In Camera at Attorney's request. The parties to this contract agree that the Judge of the Black Diamond Municipal Court shall be the decision maker in such requests, and that the Judge's decision in such cases cannot be appealed unless the ruling could be detrimental to the defendant's right to due process or effective assistance of counsel.

BY ITS SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THIS AGREEMENT AND AGREES TO BE BOUND BY THEM.

Dated this _____ day of _____, 2013

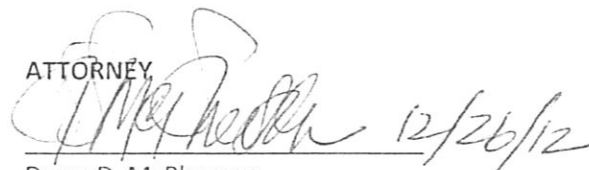
CITY OF BLACK DIAMOND

By: _____

Rebecca Olness
Mayor

POB 599
Black Diamond, WA 98010
360/886-5700

ATTORNEY



Darcy D. McPherson
McPherson Law Office

POB 759
Burley, WA 98332
360/876-4119

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-851, declaring the city K-9 dog as surplus.	Agenda Date: January 3, 2013	
	AB13-007	
	Department/Committee/Individual	City Council
	Mayor Rebecca Olness	
	City Administrator –Pete Butkus	X
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
Cost Impact: None direct	Police – Jamey Kiblinger	
Fund Source	Court – Stephanie Metcalf	
Timeline: Effective upon signing	Comm. Dev. – Steve Pilcher	
Attachments: Resolution and the proposed Bill of Sale		
SUMMARY STATEMENT: <p>As a part of the 2013 Budget the police department's K-9 program has been discontinued. The sole dog that is a part of the K-9 program is therefore surplus to the needs of the city.</p> <p>The accompanying Resolution provides for how the dog, Sabre, will be accommodated.</p>		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-851 declaring certain property surplus to the needs of the City.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
January 3, 2012		

RESOLUTION NO. 13-851

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
DECLARING CERTAIN PROPERTY SURPLUS TO THE
NEEDS OF THE CITY**

WHEREAS, the process to develop the 2013 Budget has identified certain program changes; and

WHEREAS, the program commonly known as "Police K-9" has been discontinued; and

WHEREAS, the dog named Sabre, which is the sole dog in the K-9 program, is surplus to the needs of the City of Black Diamond;

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

Section 1. The dog, Sabre, as well as accompanying collars, leashes, blankets or other dog-related equipment not displaying city or city police logos or tags is hereby declared to be surplus to the needs of the City of Black Diamond.

Section 2. The dog, Sabre, may be sold to the Police Officer who has been Sabre's working partner and caregiver for a fee of one dollar (\$1.00). Upon payment of the fee, the dog, as well as accompanying equipment as set forth in Section 1 shall become the property of the aforementioned Police Officer.

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

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk