



CITY OF BLACK DIAMOND
April 4, 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: None

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

- | | |
|---|---------------|
| 1.) AB13-024 – Resolution Accepting Roberts Drive Sidewalk Project | Mr. Boettcher |
| 2.) AB13-025 – Resolution Authorizing Professional Services Agreement with Makers | Mr. Pilcher |
| 3.) AB13-026 – Resolution Authorizing Professional Services Agreement with Peninsula
Financial Consulting | Ms. Miller |

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 4.) **Claim Checks** – April 4, 2013, Check No. 39509 through 39546 (voided check no. 39407) in the amount of \$41,689.23
- 5.) **Minutes** – Council Retreat of March 8, 2013, Town Hall Meeting of March 14, 2013, Special Council Meeting of March 14, 2013 and Council Meeting of March 8, 2013

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-862, accepting the Roberts Drive Sidewalk Project	Agenda Date: April 4, 2013	
	AB13-024	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –Mark Hoppen	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
Cost Impact: \$12,345.24 (retainage)	Economic Devel. – Andy Williamson	X
Fund Source: TIB Grant/REET 2	Police – Jamey Kiblinger	
Timeline: 45 days to clear any claims	Court – Stephanie Metcalf	
	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 13-862		
SUMMARY STATEMENT: Scotty's General Construction, Inc. completed the required work for the Roberts Drive Sidewalk project under budget and as outlined in the contract. Retainage in the amount of \$12,345.24 will be withheld until release is received by the Dept. of Revenue, Dept. of Labor and Industries, and the Employment Security Dept. The State has established a 45 day period where labor or material providers may make a claim against the project. After 45 days from the date of project acceptance, the City may release retainage.		
COMMITTEE REVIEW AND RECOMMENDATION: 		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-862, accepting the Roberts Drive Sidewalk project by Scotty's General Construction, Inc. according to the contract documents.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
April 4, 2013		

RESOLUTION NO. 13-862

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING FINAL ACCEPTANCE OF THE ROBERTS
DRIVE SIDEWALK PROJECT**

WHEREAS, Scotty's General Construction, Inc. has completed the Roberts Drive Sidewalk Project according to the contract and Council authorization; and

WHEREAS, RCW 60.28.011(2) allows a period of forty-five days to file any liens or claims with the City; and

WHEREAS, RCW 39.08.030 requires acceptance of a Public Works project as complete as a formal, public action in order to begin the forty-five day period;

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

Section 1. The City hereby accepts the Roberts Drive Sidewalk Project as complete and as set forth in that contract with Scotty's General Construction, Inc.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 4TH DAY OF APRIL, 2013.

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			
SUBJECT: Resolution No. 13-863, authorizing the Mayor to execute a contract with MAKERS architecture and urban design to prepare a General Government Facilities Plan and Mitigation Fee.	Agenda Date: April 4, 2013		AB13-025
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Mark Hoppen		
	City Attorney – Chris Bacha		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Ec Dev/Eng Svcs. – Andy Williamson		
Cost Impact: \$196,081.00	Police – Jamey Kiblinger		
Fund Source: \$17,000 REET; remainder from Master Developer	Comm. Dev. – Steve Pilcher	X	
Timeline: 1 yr. to prepare plan			
Attachments: Resolution No. 13-863; proposed contract			
SUMMARY STATEMENT: <p>Section 13.9 of the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages provides that a General Government Facilities Plan shall be commissioned by the City and completed within twelve (12) months. The Plan is to examine future needs for City Hall, Municipal Court, Public Works (corporate yard, material storage and vehicle maintenance), Police Station and associated equipment for each listed improvement/facility. The study is to be funded through the MPD Funding Agreement (i.e., by the Master Developer).</p> <p>The Plan will serve as the basis for development of a mitigation fee that will apply City-wide. In the interim, the Master Developer is obligated to pay a mitigation fee as outlined in Section 13.9.B. Should the City not adopt a city-wide mitigation fee by December 11, 2014, the Master Developer will not be required to pay any mitigation fees.</p> <p>In early 2012, 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 8 firms submitted their qualifications; three were selected to be interviewed. The interview panel consisted of Councilmember Tamie Deady, Mayor Rebecca Olness, Police Chief Jamey Kiblinger and Executive Director of Economic Development/Engineering Services Andy Williamson. The interview panel's unanimous choice was to hire MAKERS.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Councilmember Deady participated in the interview process; reviewed and approved by the Finance Committee on March 28, 2013.			
RECOMMENDED ACTION: MOTION to adopt Resolution 13-863, authorizing the Mayor to execute a contract with MAKERS architecture and urban design to prepare a General Government Facilities Plan and mitigation fee.			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
April 4, 2013			

RESOLUTION NO. 13-863

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH MAKERS ARCHITECTURE AND URBAN DESIGN LLP TO PREPARE A GENERAL GOVERNMENT FACILITIES PLAN AND MITIGATION FEE

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

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

WHEREAS, Section 13.9 of each Development Agreement states that the City shall commission a study regarding general government facilities (General Government Facilities Plan) in order to establish mitigation fee rates for such improvements; and

WHEREAS, Section 13.9 of the each Development Agreement requires the City to adopt a city-wide general government mitigation fee schedule pursuant to the General Government Facilities Plan within three (3) years of execution of the Development Agreement or otherwise, the Master Developer is relieved of all obligations to pay any mitigation fees pursuant to the Development Agreements; 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, Section 13.9 of each Development Agreement provides that the General Government Facilities Plan shall be funded through the MPD Funding Agreement; and

WHEREAS, private firms with expertise in preparing government facilities plans 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 four firms and then recommended MAKERS architecture and urban design LLP as the firm most capable of providing the 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 MAKERS architecture and urban design LLP to prepare a General Government Facilities Plan and mitigation fee pursuant to Section 13.9 of the Lawson Hills and The Villages MPD Development Agreements, 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 4TH DAY OF APRIL, 2013.

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 _____, 2013 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: Steve Pilcher Phone: 360-886-5700 Fax : 360-886-2592

and

MAKERS architecture and urban design LLP ("Consultant")

1904 W. Third Ave., Suite 725

Seattle, WA 98101

Contact: Julie Bassuk Phone: 206-652-5080 Fax: 206-652-5079

Tax Id No.: 88-0108383

for professional services in connection with the following project:

Preparation of a General Government Facilities Plan and Mitigation Fee (the "Project").

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 NOT TO EXCEED. Compensation for the services provided in the Scope of Work shall not exceed \$196,081.00 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, 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: Julie Bassuk
MAKERS Architecture
1904 Third Ave., Suite 725
Seattle, WA 98101
Fax: 206-652-5079

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 _____, 2013 and shall remain in effect until December 10, 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: Julie Bassuk

Its: Partner_____

Date: _____

Attest:

By:

Brenda L. Martinez

City Clerk

Black Diamond's General Government Facilities Plan Scope of Work

The MAKERS team (Consultant or Team) will work with the City of Black Diamond (the City) to develop a Government Facilities Plan as described in this scope of work. It assumes the Team and City project manager coordinate closely and are in frequent contact as each step progresses.

This scope of work is organized around:

1. Identifying general government facilities needs for the following timeframes:
 - a. Current
 - b. Near term future (approximately 10 years)
 - c. Long term future (approximately 20 years)
2. Identifying the gap between existing assets, comparable cities, and facilities needs
3. Selecting the preferred future location(s) for government facilities
4. Calculating mitigation fees and supporting adoption of these fees by City Council
5. Developing a feasible implementation strategy for the recommended Plan

This project will address the following City functions:

- City Administrative Services/Legal/ Finance/Treasury
- Economic Development
- Public Works/Engineering/Maintenance & Storage
- Planning/Land Use/Permitting
- Parks and Recreation
- Police
- Municipal Court

This effort does not include planning for the Fire Department, addressed separately, but does include coordinating with elements of that effort relevant to this work.

Step 1: Project Kick-Off Meeting

Collaborating with the City Project Manager, the Consultant will plan a Kick-off Meeting to clarify project objectives, determine key participants, review the general schedule, and plan next steps. Following the Kick-off, the Consultant will summarize the discussion and prepare a detailed project schedule.

Meetings, work sessions and presentations

- Project Kick-off with key City staff (1 meeting)

Step 2: Background Research

The Consultant will review existing background data (i.e. Comprehensive Plan, prior facilities planning studies, and development agreements) and familiarize themselves with other City consultant work scopes. The City will provide all relevant background information for Team review.

Step 3: Interviews and Site Visits

During this work step, the Consultant will interview City department heads and key personnel to understand current operations and discuss future plans. The Consultant will also conduct up to six (6)

interviews with the Mayor, City Council, and other stakeholders identified by the City, to identify project goals, discuss opportunities, identify constraints, etc. This work will include:

- Interviewing department directors and key staff (Up to 6 interviews)
- Touring existing facilities to identify space use; equipment and operational needs; and shortfalls
- Diagramming existing facility use
- Discussing future staffing plans, potential operational changes, space needs, functional adjacency preferences, and location requirements
- Tabulating existing major equipment
- Interviewing City Council members, the Mayor, and other stakeholders identified by the City (up to 6 interviews potentially including multiple participants)
- Summarizing key points from interviews

Meetings, work sessions and presentations

- Interviews with City Staff (up to 6)
- Interviews with Council members and key stakeholders (up to 6)

Step 4. Comparable Cities Research

The Consultant will identify a short list of cities comparable to the size that the City will have at Villages and Lawson Hills MPD build out. These comparables will offer models for staffing levels, operational organization, and service characteristics Black Diamond will need in the long term (approximately 20 year) time horizon. Short- and intermediate-term needs will be portions of the long-term needs, and will be developed as part of phasing strategies in Step 11.

Building from the short list, the Consultant will work with the City to identify the best operational models for Public Works, Police, Court, and other administrative services. The Consultant will then interview up to five (5) representatives regarding comparable department organization, space use, facility needs, IT requirements, major equipment fleet sizes, etc. If most efficient to gather information on site, the Consultant will be accompanied by City staff if desired.

In addition, the Consultant and City staff and Council representatives will tour up to three (3) recently constructed municipal facilities in the area to observe state-of-the-art space design and discuss lessons learned through programming, design and construction.

The Consultant will summarize facility sizes, staffing levels, and equipment fleet of selected operational comparables.

Meetings, work sessions and presentations

- Meet with City staff and consultant team to support comparable cities identification (1 meeting)
- Comparable City interviews (Up to 5)
- State of the art facility tours (Up to 3)

Step 5: Facility Program and Gap Analysis

The Consultant will work with the City to identify current, near term, and long term space needs for each City function. Work will include:

- Tabulating interior and exterior square footage requirements, including major equipment fleet
- Comparing current staffing, facilities, and major equipment to comparable cities and tabulated requirements
- Generating up to four (4) diagrammatic adjacency diagrams illustrating best functional placement

- Developing up to five (8) diagrammatic space layout diagrams illustrating program requirements
- Identifying desired level of finishes for cost estimating purposes

Meetings, work sessions and presentations

- Review with key City staff (1 meeting)
- One (1) City Council work session

The Consultant will incorporate staff, Council, and public input to refine the Facilities Program.

Step 6: Identify location(s) to be used in Mitigation Fee calculations

The Team will work with the City to analyze a variety of facility siting options at a strategic level. This work intends to provide a rationale for site costs to be included in the mitigation fee calculation, but stops short of identifying specific sites as this could affect future real estate negotiations and is beyond the scope of this effort. This work will include:

- Identifying locations for consideration given ownership, development potential, utilities, environmental issues, operational characteristics, public access capabilities, economic development potential, and other factors identified by the project team. The task will be done in coordination with City's staff. Up to three of the most capable areas will be selected for more detailed analysis.
- Summarizing key location characteristics and pros and cons
- Estimating the programmatic level costs for facilities at each location, relying on input from the City's civil engineering and other staff to provide costs for location-specific infrastructure needs
- Working with City staff, other City consultants, Council, and key stakeholders to identify evaluation criteria and rank the potential options.

Meetings, work sessions and presentations

- Two (2) meetings with key City staff
 - Gather data and identify location analysis parameters
 - Select locations for further analysis
 - Identify evaluation criteria, rank the potential options, and select the location to be used for calculation of the mitigation fee
- One (1) City Council presentation or open house, summarizing the work in Steps 5 and 6

The Consultant will incorporate staff, Council, and public input to outline pros and cons and identify a location(s) for use in costing and calculation of the mitigation fee.

Step 7. Research for Mitigation Fee

The Team will collect data to support calculation of the mitigation fee, including:

- Inventory of existing general government facilities in comparable cities (provided in Step 3)
- Data about existing population, dwelling units, and non-residential structures in comparable cities.
- Estimated cost of general government facilities for Black Diamond (provided in Step 6)

Step 8. Analysis and Rate Study

The Team will develop the methodology to be used for Black Diamond's mitigation fee for general government facilities and develop the cost model for calculating general government facilities mitigation fees. This work includes analyzing the data from Steps 5 – 7 and using the data and the cost model to calculate the mitigation fee rates. The Team will prepare a rate study that documents the formulas and

algorithms for calculating the general government facilities mitigation fees. The rate study will describe each variable in each formula, and document the data and/or assumptions used for each variable, and resulting general government facilities mitigation fee rates.

Step 9: Potential Revenues

The Team will estimate a range of revenues that Black Diamond would collect from the proposed general government facilities mitigation fee rates calculated in Step 8.

Step 10: Financing Strategies

Given the above analysis, the Team will educate the City advise the City regarding financing for the government facilities plan and educate the City regarding pros and cons of different strategies. Strategies will include but are not limited to mitigation fee revenue, debt (bonds or loans), public-private partnerships, lease-purchase, and developer construction (for credits against mitigation fees).

Step 11: Phasing Strategies

Given all the above analysis, the Team will work with the City to generate a phasing plan. This will include:

- Collaborating with the City to develop a reasonable phasing strategy, given the existing, near, and long-term facility requirements
- Developing phasing diagrams to illustrate recommended government facilities development over time
- Working in lockstep with Step 10, refining the programmatic level cost estimate if needed given the phasing strategy

Meetings, work sessions and presentations

- Two (2) meetings with key City staff
- One (1) City Council workshop

The Consultant will incorporate staff and Council input to refine the phasing strategy.

Step 12: Government Facilities Plan

The Team will assemble the information developed in work steps 1 through 6 and 11 into the preferred Government Facilities Plan. The Plan will include:

- The refined version of the Government Facilities Program developed in work step 5, including:
 - Detailed square footage requirements for each City function
 - Furniture fixtures and equipment allowances (FF&E) allowances
 - Major equipment lists
- A summary of location pros and cons and analysis behind the recommendation for calculation of the mitigation fee undertaken in work step 6
- A description and illustration of the recommended government facilities including:
 - Graphics depicting the potential functional layout (including internal adjacencies) and site plan character of the future government center
 - Two (2) three-dimensional building character illustrations of what the new government center could look like
- The planning level cost data developed in work step 6 and refined in work step 11
- An implementation phasing plan strategy recommendation developed in work step 11

Meetings, work sessions and presentations

- Two (2) meetings with key City staff
- One (1) City Council workshop
- One (1) City Council presentation

The Consultant will incorporate staff and Council input and refine the Government Facilities Plan.

Step 13: Adoption Support

The Team will be available to support the City as it adopts the General Government Facilities Plan, incorporates recommendations into its municipal code, and develops administrative procedures for general government facilities mitigation fees. Work steps include providing advice to the City Attorney concerning adding general government facilities mitigation fees to Black Diamond's Municipal Code, advising the City regarding administrative procedures for general government facilities mitigation fees. The Consultant will review the rate study, revenue estimates, and financing strategies and respond to questions and suggestions, and make revisions as appropriate.

Meetings, work sessions and presentations

- Up to five (5) meetings with staff and/or City Council to present the proposed rate study, respond to questions and comments, and assist in the review and adoption

Schedule

This work, excepting Step 13, will be completed within 12 months of the notice-to-proceed. Step 13 is dependent on the length of time required for the City's adoption process. Development of a detailed project schedule is included in Work Step 1 and will be provided after the Project Kick-off meeting.

Assumptions

Please note: achieving the 12-month schedule will depend on the availability of City Staff and Council for meetings (approximately one meeting with staff every month and one meeting with Council every other month) and timely reviews of draft materials (within one week).

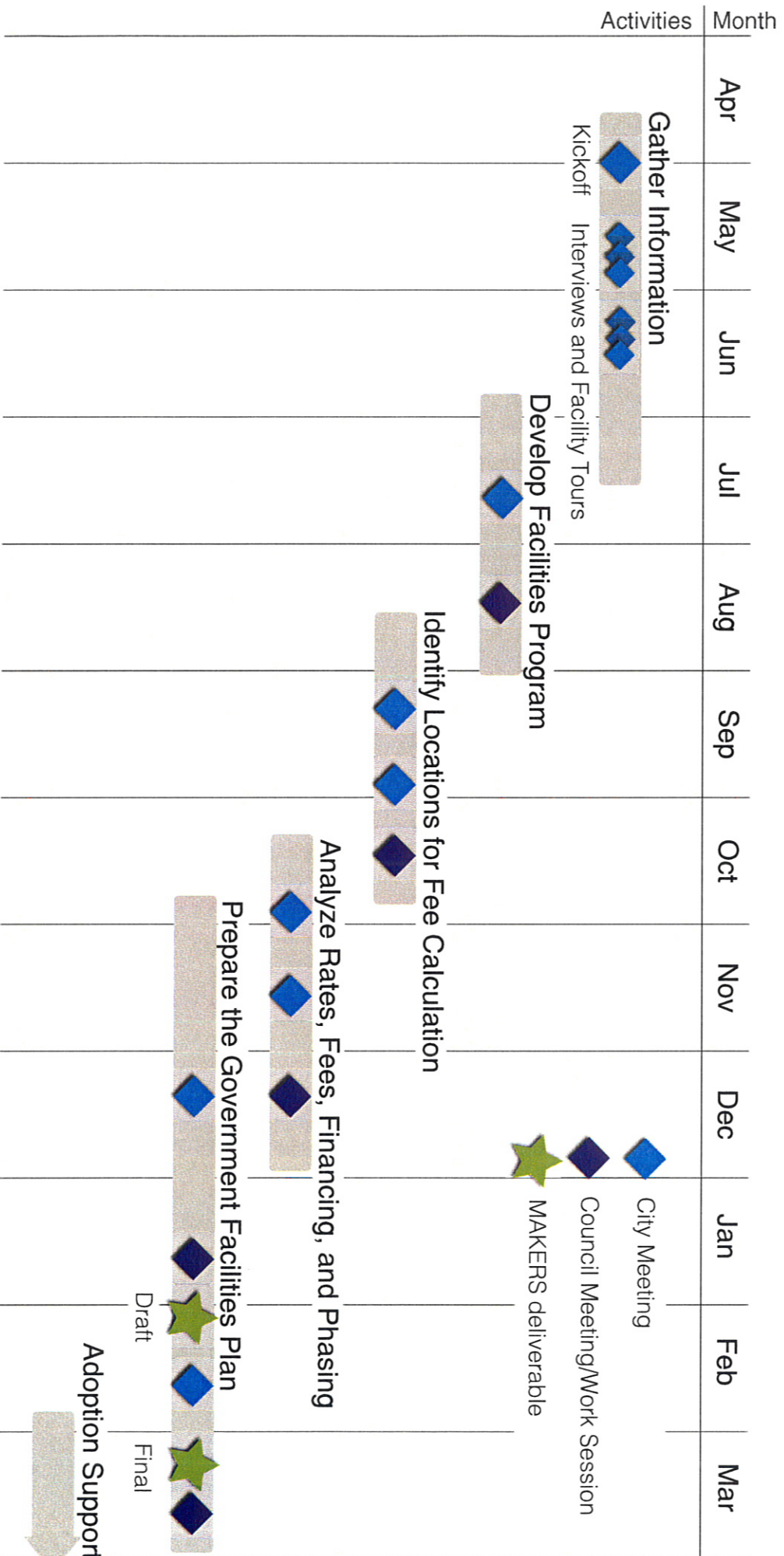
The budget assumes seven meetings with City staff occur at MAKERS office in Seattle.

Black Diamond shall organize, schedule, coordinate logistics, and advertise all interviews, city staff meetings, and city council/public meetings for the project.

Black Diamond shall distribute draft deliverables for review as desired and coordinate all comments prior to providing to MAKERS.

Exhibit B

Black Diamond Government Facilities Plan Schedule



Black Diamond Government Facilities Plan
2/6/2013

TASK	MAKERS			HY&C		TRC		AMOUNT
	GH \$185	JB/BB \$165	Staff \$95	RY \$215	PA \$75	Principal \$150	Estimator \$135	
1. Project Kick-off	3	10	12	3		3		\$4,440
2. Background Research	2	16	32			2		\$6,350
3. Interviews & Site Visits	16	40	72					\$16,400
4. Comparable Cities Research	16	40	60	70	10			\$31,060
Government Facilities Program								
5. & Gap Analysis	8	40	104					\$17,960
Identify Locations & Council								
6. Pres/Open House	12	46	100			8		\$20,510
7. Research for Mitigation Fee				20	10			\$5,050
8. Analysis and Rate Study				80	10			\$17,950
Potential Revenue from								
9. Mitigation Fee				8				\$1,720
Financing Strategies for								
10. GenGov Facilities				30	10			\$7,200
11. Phasing Strategies	8	38	68			24	8	\$18,890
12. Government Facilities Plan	12	60	176	10		3		\$31,440
13. Adoption Support	4	30	16	40				\$15,810
TOTAL HOURS	81	320	640	261	40	40	8	
TOTAL FEE	\$14,985	\$52,800	\$60,800	\$56,115	\$3,000	\$6,000	\$1,080	\$194,780

Mileage (Up to 14 trips to BD + up to 5 comparable city tours)

\$749

Reimbursables (meeting handouts and up to 10 copies of final report)

\$552

TOTAL

\$196,081

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 13-864, authorizing the Mayor to sign a contract with Peninsula Financial Consulting to provide a rate study for the Water, Sewer and Stormwater Funds.	Agenda Date: April 4, 2013	
	AB13-026	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	X
	Natural Resources/Parks – Aaron Nix	
	Economic Devel. – Andy Williamson	
Cost Impact: \$11,660	Police – Jamey Kiblinger	
Fund Source: Remaining Project Funds in Water, Sewer & Stormwater completed projects.	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Steve Pilcher	
Attachments: Resolution No. 13-864; Professional Services Agreement		
<p>SUMMARY STATEMENT: During the 2013 Budget Development process last fall, Council recognized the need to update our Utility Fund rate studies in 2014. Changes that will occur as a result of growth accentuate the need to update our forecasts into the future plus the need to accommodate the anticipated Funding Agreement fiscal reductions. Black Diamond's last utility rate studies were completed in 2008 by PacWest Engineering who recommended that the utility rate study should be updated every two to three years.</p> <p>The proposal is to have Mr. Ashley Emery of Peninsula Financial Consulting provide a multi-year Budget forecast for the Water, Sewer and Stormwater funds. The study will provide the City of Black Diamond an updated multi-year computer model that will incorporate maintenance and operation costs, existing and planned debt payments, impact of rates from future growth, needed capital improvements, and maintenance of adequate utility fund reserves. The interactive model will show the impact of each of these items on future rates. Additionally, the model will be easy to update each year as changes occur. Mr. Emery will also review the exemptions and formulas used to pay the State B&O Taxes for the Sewer Fund which will probably result in a savings for the Sewer Fund in the future and a possible four year refund for past taxes paid. Mr. Emery is ready to begin work as soon as all contracts are signed so information can be provided to Council in workstudies over the next few months.</p> <p>The Study will be paid from existing funds that remain in the Sewer, Water and Stormwater completed project Funds.</p>		
<p>COMMITTEE REVIEW AND RECOMMENDATION: Finance Committee reviewed the proposed Scope of Work for the Water, Sewer and Stormwater Rate Study scope of work at their March 28, 2013 meeting and recommended that the resolution be brought to Council at the April 4, 2013 Council meeting, so work could begin as soon as possible.</p>		

RECOMMENDED ACTION: **MOTION to adopt Resolution No. 13-864 authorizing the Mayor to sign a Contract with Peninsula Financial Consulting to provide a rate study for the Water, Sewer and Stormwater Funds.**

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
April 4, 2013		

RESOLUTION NO. 13-864

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING A PROFESSIONAL SERVICE AGREEMENT
WITH PENINSULA FINANCIAL CONSULTING**

WHEREAS, during the 2013 Budget process Council discussed the need for a rate study for the Water, Sewer and Stormwater Funds: and

WHEREAS, it is the desire of the City to contract with a financial firm experienced in multi-year forecast modeling; and

WHEREAS, a panel consisting of the City Administrator, Executive Director of Engineering Services and the Finance Director met with Peninsula Financial Consulting and recommends them as most capable of providing the services desired; and

WHEREAS, Peninsula Financial Consulting is willing and able to perform the desired 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 Professional Services Agreement with Peninsula Financial Consulting to analyze sewer excise tax reduction and to prepare a multi-year budget forecast for the water, sewer and stormwater funds as 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 4TH DAY OF APRIL, 2013.

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 _____, 2013 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: May Miller Phone: 360-886-5700 Fax : 360-886-2592

and

Peninsula Financial Consulting ("Consultant")

PO Box 354

Brinnon, WA 98320

Contact: Ashley Emery Phone: 360-796-4903 Fax: _____

Tax Id No.: _____

for professional services in connection with the following project:

Analyze Sewer Excise Tax Reduction and Preparation of a Multi-Year Budget Forecast for the Water, Sewer and Stormwater Funds

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.

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 NOT TO EXCEED. Compensation for the services provided in the Scope of Work shall not exceed \$11,660.00 without the written authorization of the City and will be based on the list of billing rates as proposed in the Scope of Work.

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: Ashley Emery
Peninsula Financial Consulting
PO Box 354
Brinnon, WA 98320
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/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. 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: _____

Its: _____

Date: _____

Attest:

By:

Brenda L. Martinez

City Clerk

Peninsula Financial Consulting
P.O. Box 354
Brinnon, WA 98320
360-796-4903



March 24, 2013

SCOPE OF WORK

Sewer Excise Tax Reduction

Analyze annual sewer operating costs and work with staff to develop metrics to segregate sewer costs between collection and transmission activities associated with the City's sewer system. The DOR allows revenues associated with transmission activities to be taxed at the lower B&O tax rate of 1.5% and it is expected performing this analysis will reduce annual State sewer taxes by about 30%. The analysis will be documented in an attachment to a transmittal letter that fully details the calculation and methodology for future use by the City.

- 32 hour estimate @ \$110/hour. This includes one meeting with operations to outline what info will be needed from the City.

Multi-year Budget Forecast – Water, Sewer and Stormwater Funds

A 20 year budget forecast model will be developed based on historical operating revenues and expenses and forecasted growth and scheduled capital improvements. The model will be used in interactive review sessions with staff to review the impacts on monthly rates of the following issues:

- Rate adjustments required to stabilize existing water and sewer operations
- Existing and planned debt payments
- Cash/loan financing of future capital projects
- New O&M costs associated with new facilities
- Impact on rates of growth
- Updated depreciation totals
- Maintaining adequate reserves
 - 50 hour estimate @ \$110/hour. This includes two (2) meetings with staff.

Presentation

A presentation will be developed to educate the City council and public on the financial issues facing the water and sewer utilities and what steps are recommended to ensure the fiscal soundness of both utilities while striving to minimize the long term impacts to existing customer monthly rates.

- 24 hour estimate @ \$110/hour, plus any additional meetings will be at the rate of \$600